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*With the Compliments  
of  
The Secretary*

ANNUAL REPORT  
OF THE  
INDIAN MERCHANTS' CHAMBER  
FOR THE YEAR

**1957**

*Presented to the Annual General Meeting of the  
Chamber held on 5th February 1958.*

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*Published by*

**A. C. RAMALINGAM**

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**1958**

## C O N T E N T S

	PAGES
1. Proceedings of the 50th Annual General Meeting .. .. ..	iii-xix
2. Chairmen of the Indian Merchants' Chamber .. .. ..	xix-xx
3. Chamber's Representatives on Public Bodies .. .. ..	xxi-xxii
4. Office-Bearers for the year 1958 ..	xxiii-xxvi
5. List of Journals and Periodicals received in the Library of the Chamber ..	xxvi-xxxii
6. Report of the Committee of the Chamber for the year 1957 .. ..	1-144
7. Statement of Accounts .. .. ..	After 144
8. Appendices .. .. ..	145-575
9. Index .. .. ..	576-581

*Chamber of Commerce*

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**PROCEEDINGS OF THE 50th ANNUAL GENERAL  
MEETING OF THE MEMBERS OF THE INDIAN  
MERCHANTS' CHAMBER HELD ON WEDNESDAY,  
THE 5th FEBRUARY 1958**

The 50th Annual General Meeting of the Members of the Indian Merchants' Chamber was held on Wednesday, the 5th February 1958 at 4.30 p.m. at the premises of the Chamber. Shri Naval H. Tata, President of the Chamber, was in the Chair. Besides Shri Gopaldas P. Kapadia, the Incoming President and Shri Lalchand Hirachand, the Incoming Vice-President, 88 Members were present.

1. The Secretary read the notice convening the meeting.
2. Shri Naval H. Tata, the retiring President, while placing before the meeting the Report of the work done by the Committee during the year ending 31st December 1957 made the following speech :

**FRIENDS:**

It gives me great pleasure to extend to you all a warm and cordial welcome. We have just celebrated the Golden Jubilee of the Chamber, which is an epoch-making event in the history of our Institution. We had the privilege of having our Prime Minister, Shri Jawaharlal Nehru, in our midst to inaugurate our celebrations and give us his inspiring message of hope and cheer on the occasion. Let us hope that we will not only cherish the rich heritage of nearly half a century which has been handed down to us, but look forward to playing a more effective and constructive role in the programme of planned economic development undertaken with a view to ameliorating the living conditions of the people.

Before I pass on to some of the topics, to which I propose to refer in my speech, I would like to take this opportunity of offering my felicitations to our friend, Shri Gopaldas P. Kapadia, who has been unanimously elected as the President of the Chamber for the ensuing year. Shri Kapadia has a distinguished record in his profession of Accountancy and enjoys a pre-eminent position in the line. He has, in no small measure, contributed to its organisation on a sound footing, and it was in recognition of his unremitting efforts that he was elected as the first President of the Institute of Chartered Accountants of India. He also led the Indian Delegation to the International

Congress on Accounting held at London in 1952. With his profound insight and background of knowledge and experience regarding law and practice of Joint Stock Companies, he made valuable contribution in formulating the provisions relating to Auditing and Accounts, as a Member of the Company Law Committee. He has been recently appointed a Member of the Sale Tax Inquiry Committee by the Government of Bombay, which is to undertake a comprehensive inquiry into the structure and basis of Sales-taxation in the State. He has also been a Member of the Committee of the Federation of Indian Chambers of Commerce & Industry for the last three years. I have no doubt that his intimate knowledge and deep study of taxation laws obtaining in different countries will stand him in good stead and he will be able to successfully guide the affairs of the Chamber.

I should also like to congratulate Shri Lalchand Hirachand on his election as the Vice-President of the Chamber. Shri Lalchand belongs to the illustrious House of Walchand Hirachand, which holds an important position in the industrial life of the country and has a record of service in the promotion of shipping, automobiles, electrical equipment, sugar, etc. Shri Lalchand is also a Member of the Rajya Sabha since 1952. I am sure, with his rich and varied experience in the sphere of industry, he would prove to be of considerable help and co-operation to Shri Gopaldas in guiding the activities of the Chamber.

#### Economic Conditions :

The year under review was full of stresses and strains following in the wake of launching of the bold and massive Second Five-Year Plan. In the context of the objectives and the stupendous problem of 'breaking the vicious circle of poverty', the Second Plan may not be described as over-ambitious. But the crisis of development came so suddenly and we were confronted with the inherent shortcomings, contradictions and structural bottlenecks, perhaps inevitable in a backward economy, on so many fronts, that the cumulative effect was in terms of a general sense of frustration, despair and uncertainty about the future. Even the authorities seem to have been taken unawares and were not prepared for certain developments. The atmosphere of hope and confidence that prevailed at the end of the First Five-Year Plan was, within a year, transformed, compelling serious re-assessment and re-appraisal

on the economic front. We were required to work out a rational re-adjustment of our development programme in terms of evolving a scheme of priorities, so as to save what has been described as the core of the Plan. An attempt to accelerate the tempo of developmental activities resulted into a spurt of inflationary pressures in the economy on the one hand, and a rapid depletion of our foreign exchange resources on the other, almost creating a veritable crisis in our balance of payments position. The Suez Canal crisis meant a virtual blockade of our import-export trade, leading to enormous rise in the cost of imports. The deteriorating food situation, as a result of severe drought and floods in certain areas of the country, necessitated import of foodgrains in bulk from abroad. Coupled with this, during the year, the unprecedented and extraordinary taxation measures in quick succession had a cumulative effect of rudely shaking the confidence of the commercial community. The fears and apprehensions entertained by the commercial community as to the repercussions of the several taxation measures on the economy of the country as a whole were communicated to the Government of India. The incessant increase in corporate taxation, such as enhancement of penal tax on bonus shares and the basic rate of income-tax and the effective rate of super-tax payable by companies were such as would have a retarding effect on corporate enterprise under the private sector. In addition, the scheme of compulsory deposits, the application of wealth tax on companies and a host of other measures were sufficient to dampen the enthusiasm of the investor and the entrepreneur alike. The problems and difficulties facing the country are indeed a challenge to our resourcefulness and ingenuity. In meeting this tremendous challenge of the times, which our Prime Minister has aptly described as 'a great adventure of building our great country', every effort should be made to fight the defeatist mentality and create the right atmosphere of hope and self-confidence enabling the nation to march forward unitedly and with determination. This places on the one hand a great responsibility on the Government and their success in creating the right psychology and the spirit would depend upon the measure of pragmatic and realistic approach they are able to show in the formulation of policies. In this context, I welcome the emphasis placed by the Prime Minister on the practical and realistic approach to the problems facing the country and the sober realisation that it would not be correct to equate doctrinaire nationalisation with socialism. The

people on the other hand must cheerfully undertake the arduous task of increasing national production on all fronts not only to raise the standard of living of the people, but also to create conditions of capital formation so essential in accelerating the pace of economic development of the country.

#### Price Trends :

As a result of the progressive rise in the Plan investment every year, with Rs. 343 crores in 1953-54 to Rs. 761 crores in 1956-57 and the estimated investment of nearly Rs. 900 crores in 1957-58, the money supply has also gone up from Rs. 1,765 crores in 1953 to Rs. 2,248 crores in September 1957. Left to itself this fact would have led to serious inflationary pressures in the economy as were noticed by the continuous rise in prices till August 1957. The deficit financing by the Public Sector during the year upto November 1957 was of the order of Rs. 417 crores, nearly twice as much as in 1956. In addition to this, the Bank credit provided to the Private Sector was to the tune of Rs. 74 crores. The danger of heavy inflationary pressures consequent upon deficit financing during the year was counter-acted by heavy depletion in foreign exchange reserves which has brought down the balances to nearly Rs. 300 crores, a precariously low level for meeting any of our commitments. This process was further helped by the stringent control exercised by the Reserve Bank over advances in pursuance of its policy of selective control and series of other anti-inflationary measures adopted by the Government. However, with the shrinkage of the foreign exchange reserves the neutralising factor will no longer be available and we will have to exercise greater vigilance over the inflationary forces.

Price changes over the year 1957 reveal divergent trends of advance and retreat. The general index of wholesale prices (base 1952-1953 = 100) increased from 98 in March 1956 to 106 in March 1957 and touched the peak in August at 113.5 showing a rise of nearly 14%. This rise was shared practically by all the major groups although it was most pronounced in the case of cereals which registered a rise of 19 points. The index of industrial raw materials had moved from 111 to 122 and the manufactured articles from 103 to 109. The later months reveal a reversal in the price trend. The index of food articles has dropped from 113.5 in August to 104.3 in December and the index of industrial raw materials has shown a decline from 122.3 to 115.5 for the same period. Prices of manufactured

goods have also shown a downward trend though not of a very appreciable nature.

### Trends in Production :

Despite an increase of nearly 6 per cent in foodgrains over the level reached in 1955-56, the food situation in the country continued to cause anxious concern during the whole year. The continuing overall deficit in foodgrains would result in a heavy draft of about Rs. 100 to 150 crores a year on our slender foreign exchange resources if the situation is not remedied by an all-out effort to increase food production in the country. As has been rightly emphasized, the very success of the Second Plan and the progress envisaged under the same in terms of rapid industrialisation of the country largely depends on our agricultural production and this constitutes the very foundation on which our economic edifice can be built. The country must be prepared to face the challenge on a national scale with a sense of urgency. As the Prime Minister has put it "if the food problem is not solved, then everything will collapse". Given the necessary spirit of co-operation and determination on the part of the people, it should be possible for us not only to achieve the revised target of 15.5 million tons but even double our food production over the next five years by adoption of intensive cultivation of about 55 million acres of land in the country fed by irrigation and another 45 million acres assured of water-supply from other sources. In short we must aim at attaining self-sufficiency in respect of our foodgrains requirements.

Industrial production has shown a fairly steady rise and the tempo has been gathering momentum from year to year. The index for industrial production with 1951 as the base year improved steadily from 103.6 in 1952 to 105.6 in 1953 to 112.9 in 1954 to 122.1 in 1955 and 133.0 in 1956. The index of production during the first 6 months of 1957 was even higher than the average for the whole of 1956 and works out at about 148.8. Substantial increases have been recorded in iron and steel, cement, coal, cotton textiles, sugar, electricity supply, transport and engineering industries.

The rising tempo of industrial production is indeed a silver lining in our economic horizon which augurs well for the future. It is also a matter for satisfaction that the efforts of our Finance Minister during his recent tour at removing misapprehensions and misunderstandings in some of the indus-

trially advanced countries of the West, regarding our basic policies and principles and particularly the Government's attitude on the question of nationalisation and the role of the private sector have borne some fruit. In this context the recent offer of new loans aggregating \$225 million by the United States deserves to be welcomed though it does not come up to our expectations. It is however reasonable to hope that more aid would be forthcoming during the remaining period of the Second Plan from the same source. In addition, the prospect of an advance of \$100 million from the World Bank for the development of ports, power and other projects, the recent agreement entered into with France in terms of which India could avail of credit facilities for about Rs. 26 crores, the satisfactory progress made in the negotiations for a yen loan of Rs. 25 crores from Japan, and the chances of securing deferred credit from West Germany would certainly help in narrowing the wide foreign exchange gap which confronts us.

I have always held that both public and private sectors can play a really vital role in the tremendous task of national reconstruction that we have undertaken. I would urge the authorities to shed their ideological bias and give suitable opportunity to the private sector which has shown necessary vitality in the past and which holds equally great promise in the future to contribute its fullest mite in the economic regeneration of the country. The performance of the private sector during the First Plan period has been acclaimed as commendable inasmuch as it not only fulfilled the targets but exceeded the same in several respects. Even during the Second Plan, it has taken sufficient initiative in fulfilling the allotted task, despite the several handicaps and restrictive conditions within which it has to operate. I hope the Government will do all in its power while formulating various economic policies—monetary, fiscal, labour and taxation—to revive the entrepreneurial and investment confidence, which was seriously impaired as a result of certain policies pursued during the year under review.

#### **Reorientation in Taxation Policies :**

The recent trends in personal and corporate taxation in the country have been causing a great deal of concern and anxiety to the industrial and business community, as at a time when the country has launched upon an ambitious programme of rapid industrialisation and economic development, they have

been impeding and acting as serious disincentives for savings and investment in the economy. As the Budget for the year 1958-59 will be presented to the Union Parliament shortly, I feel I should take the present opportunity to review briefly the taxation policy and measures of Government, with a view to emphasizing the need for a proper reorientation thereof, which would encourage and assist the process of savings and capital formation within the country as also attract sufficient foreign capital for investments here.

We are all aware of the acute foreign exchange position facing the country, which underlines the imperative need for the flowing in and investment of foreign capital in the country. Even though foreign capital cannot by itself be said to have played a dominant role in the industrial growth of any nation, in the context of our difficulty in mobilising sufficient internal resources on account of the low *per capita* income and consequently the savings of the community as also the necessity for securing capital equipment and machinery from abroad for our developmental activities, the place and position of foreign aid and capital cannot be gainsaid. It, however, goes without saying that any foreign participation should not have strings attached to it nor should it be such as to jeopardize the independence of the country or cast even a shadow of economic domination on the country as a whole.

While certain incentives in the shape of tax concessions afforded in recent years, both in regard to domestic resources as well as foreign investments, are appropriate and welcome so far as they go, in order to make such concessions more effective and incidentally to realise in a full measure the aims underlying them it is absolutely essential that those concessions should be properly reviewed and suitably modified in some desirable directions.

In the field of personal taxation, the concessions already in existence for foreign technical personnel should be made more favourable and attractive and the question of extending the same to a certain number of essential foreign personnel employed in enterprises involving foreign investments should be examined, in view of the fact that the cumulative burden of the tax on foreign personnel employed in India is greater than that prevalent in certain other countries. As we stand in need of more and more technical know-how from industrially advanced countries, the necessity for early action in this direction cannot too strongly be stressed. In regard to corporate

taxation as well, a similar situation is reported to be obtaining in our country, inasmuch as the level of taxation on foreign companies' investments in India is higher than the rates to which they are subjected in most other countries wherein foreign capital is being employed. Further, measures like the capital gains tax, compulsory deposit scheme, tax on bonus share issues, excess dividend tax, the recently instituted wealth tax and expenditure tax have all been acting as serious deterrents to and scaring away prospective foreign investors in India, as most of these forms of taxation are not existing in other countries which are developed or under-developed. Again, in the matter of double taxation, except with a few small countries like Pakistan, Ceylon, etc., the Government of India have not concluded treaties for exemption of double taxation. At the present stage of our economy, there is great urgency for our entering into such treaties with important countries like the U.S.A., the U.K., West Germany, Japan and others, if we are to attract capital and investments from these countries. Government should, therefore, consider without any further loss of time the question of concluding double taxation avoidance agreements, particularly in the first instance with those nations which have already invested, or are likely to be in a position to invest, in our country, as such agreements would help the creation of the requisite psychological climate.

For the rapid industrialisation and economic development of the country, a sound and healthy atmosphere for the formation, growth and retention of productive capital and resources within the economy are indispensable pre-requisites. In fact, to quote the words of the Indian Industrial Delegation that visited last year the United States and certain continental countries, "The extent of our capacity to avail ourselves of these facilities largely depends upon our ability to raise money in India itself without which it would be impossible to utilise credits from abroad". It is, however, unfortunate that the recent trends in taxation policy and measures of Government on individuals and corporate enterprise have increased their burden to a great extent that they have entirely lost sight of the tax-bearing capacity of the community. The more disconcerting feature of the situation is that the various imposts not only on individuals but also on corporate undertakings have been stepped up to an extraordinary level, thereby seriously affecting the savings and investment potential or capacity of both. As though these were not enough, the new forms of Wealth Tax and Expenditure Tax have been included

in the tax system, thereby still crippling the resources of corporate establishments as also individual citizens. Whatever may be the ideological considerations underlying these measures, the existing state of things, whereunder the country requires in an abundant measure capital formation and investment in industrial units, should not be allowed to suffer a setback in any way, if we have to achieve the aims and objectives that we have set before ourselves for the economic and all-round regeneration of our nation.

In this connection, I may mention that a study of the evolution of the taxation structure in the advanced countries of the world shows that the trends have been to assist healthy formation, growth and retention of productive capital and resources, by not imposing heavy or irksome burdens either on the corporate sector or on individuals during the crucial formative periods of industrialisation. Investments in corporate undertakings emanate from the savings of individuals and, if industrial development in the private sector has to proceed ahead in terms of the targets allotted in the Plan, it is of the utmost importance that the existing rates of taxation, both on earned and unearned incomes, should be substantially reduced from the high levels they have reached. There is all the greater force for such a case, because the new wealth tax and expenditure tax levies have added to the tax burden of the community, leaving practically very little margin for savings and investment. Government should, therefore, earnestly give their thought to early action in this direction and should effectively assist the creation of a better and sounder climate, by gradually decreasing the rates of personal taxation for the highest slab from the present 77 per cent for earned incomes to 50 per cent and a similar reduction for unearned incomes as well. If productive enterprise has to be sustained and afforded a real impetus for a further growth and development, the same could be achieved only by having the rates of personal taxation at the lowest possible level.

Coming to the taxation on corporate enterprise, as you all know, the Chamber has been taking all reasonable opportunities to drive home to Government the inequity and injustice involved both in regard to the increases effected in the rates as also on account of the novel levies, such as wealth tax, compulsory deposit scheme, excess dividend tax, tax on bonus shares, etc. A wealth tax on companies cannot at all be justified on any accepted principle of taxation. The compulsory deposit

scheme has caused great difficulty both to the domestic as well as to foreign business interests, as the same is likely to seriously disorganise the working of industrial units. No doubt, the operation of the scheme has been made simpler than what was originally intended, and in June last the Finance Minister announced that the proposal was a temporary expedient and was subject to change in the light of the developing circumstances. However, both with a view to allay the fears of foreign companies as also to enable domestic corporate enterprise to play their part fully in rapid industrialisation, it is essential that Government should withdraw the scheme at a very early date. The continuance of a levy of a tax on excess dividend distribution is a contradiction in terms, when the same is imposed simultaneously with a tax on bonus issues. In any event, the minimum of 6 per cent return exempted from the additional graded tax on dividend should be calculated not merely on the paid-up capital but also on the capital employed, viz. paid-up capital plus reserves. Again, the check on distribution of dividend by the graded tax should not be applicable to Section 23A companies, since in the case of such companies the requirements of law contemplate distribution of a substantial proportion of the profits. The Chamber had stressed from time to time that the tax on bonus issues has been imposed in contravention of the recommendation of the Taxation Inquiry Commission. Distribution of accumulated reserves in the form of bonus shares, which have already borne tax, cannot be deemed to be income in the hands of the recipients.

#### **Role of Labour :**

Labour in India has made many great strides both organisationally and from the point of view of welfare during the past ten years following the achievement of Independence. Labour has not only been the recipient of higher money incomes but has also been the beneficiaries of numerous welfare measures which have pushed up their real incomes appreciably. The smaller number of hours, the better conditions of work and more congenial environments have made the lot of industrial worker relatively happier and better. In fact, labour legislation in India has been planned and pushed forward on such a rapid scale that it has started to exercise a baneful effect on the economy firstly by inflating the cost of production of the industries and secondly by generating an atmosphere of discontent and an urge for similar increased benefits in the non-industrial sector as has been indicated by the series of strike threats in

the Central Government Services. This has brought home the fact that the tendency to treat one section of the population as the privileged class and single them out for conferment of more and more benefits could not be continued for long and that the benefits of progress or greater development in a democratic set-up should be distributed equitably to all sections of society. While the social basis of welfare measures can readily commend itself, our enthusiasm should not over-run the limits of practical prudence. I am mentioning this not with a view to suggest that the Industrial worker has got all that he wants and that his standard of living leaves nothing to be desired. Compared to some of the advanced countries of the West, much more remains to be achieved for the industrial worker and our constant aim should be to achieve a steady and progressive improvement in working conditions and living standards. What I wish to emphasize is that labour has to march in step with the rest of the society and their progress should be consistent with the basic determinants like the capacity of the industry, its need for future growth and expansion and the larger interests of national economy. Much as they would claim the rewards of industrial advancement, it is the duty of labour to see that the nation grows in solidarity and cohesion and to ensure that the economy of the country is put on an even keel. Especially in the present context, when we are passing through rough weather so far as the implementation of the Second Five-Year Plan is considered, I would particularly appeal to the enlightened trade union leadership to instil in the workers a sense of responsibility and co-operation so that the path of progress is not deterred either by pressing for unreasonable or disproportionate demand for higher wages or increased amenities or by withdrawing their valued co-operation in the task of national reconstruction by indiscipline, absenteeism, go-slow tactics, strikes and so on. Strength and stability are the essential requisites of a developing economy and the degree of control that we can exercise over the cost of production in manufacturing industries will determine our success in achieving that strength and stability. Labour can make a vital contribution to the economic stability and progress of the country provided there is a sense of community of purpose and interest between management and labour.

The averred purpose of every economic development is to raise standards of living. There is, however, no short-cut for achieving this objective. The millennium cannot descend down to the earth as though by a magic wand nor can it be

brought about by legislation. Living standards are determined basically by the availability of consumer goods and services. When the supply of these goods and services increases more rapidly than population, average living standards rise; conversely, they fall. It has thus been conceded that an acceptable standard of living for the mass of the population is possible particularly in an under-developed country like India, only if a considerable increase in productivity can be achieved. Without increasing national income, it is not possible to raise the standard of living of the working class. Increase in wages and grant of better living conditions without increasing efficiency and *per capita* production will increase the cost of production which will inevitably be followed by increase in the prices of goods and commodities. A vicious wage-price spiral will then be created which will not benefit anybody, but on the contrary will only retard economic growth. Labour, imbued with a sense of realism and self-interest, should lay the greatest emphasis on higher productivity and should show a degree of restraint in regard to demand for higher wages or amenities at least for the period of the Second Plan, if we are not to be caught in the vortex of inflation which is threatening to undermine our Second Plan.

The achievement of higher productivity is, however, by no means an easy task. A rapid increase in productivity would require the whole-hearted co-operation and full participation of the whole people. The problem is essentially one of human motivation. Apart from economic factors and limitations, the human factor, viz. the approach of labour and management to this most important problem is of crucial significance. It is, therefore, incumbent on all of us, Government, Employers and the Employees, to create such social and psychological factors as would inspire the people to put forth their best efforts in the implementation of our development programmes and to make such sacrifices and extend such spirit of accommodation as would be demanded by the larger long-term interests of our national economy. In point of fact, both capital and labour, regarded as joint partners in the great adventure of nation building, should be prepared to undergo a certain amount of stress and sacrifice that an accelerated tempo of economic advance would inevitably impose on them and should be ready to share, in due time, the rewards of such a joint endeavour for the common good of the common man. If on the contrary they regard themselves as belonging to two warring camps eager only to snatch the maximum concessions and benefits to oneself,

unmindful of its repercussions on the national economy, our struggle for national development will not meet with the desired success. It is the spirit of partnership that should guide our approach to problems of industrial relations, no matter whether the problem is one of productivity, or participation of workers in management or improvement of working and living conditions or higher wages. We recognise that labour occupies an important position in the economy of our country and are conscious of the virtues of a contended labour force. The need of the hour is to narrow down the divergence and the seeming conflict of interest between capital and labour by emphasizing their mutual inter-dependence and by the inculcation of progressive ideas of business management and industrial relations. The proceedings of the Ninth Annual Session of the Indian National Trade Union Congress which was held in Madurai last month are specially noteworthy for the greater sense of realism displayed by the leaders in that they have recognised that a real improvement in the conditions of the workers, as well as others, can come only if there is increased production. Stressing the importance of labour relations and the proper organisation of labour in a disciplined way, Shri Jawaharlal Nehru, in his message to the Conference has struck the right note in the following words :

"This organisation, however, while building up the strength of organised labour should not indulge in adventurist tactics which injure not only the country but the cause of labour. We are all interested in raising the standards and living conditions of workers. But it is obvious that this can only be achieved through greater production and anything that comes in the way of that production is harmful to all."

Modern industry is a co-operative effort, capable of conferring collective benefits of a lasting character and it is upto us to make the best use of it for ushering in a new economic order which will be strong, stable and self-sustaining and will contribute ever more to India's greatness and growth.

I take this opportunity of thanking the Secretary, Mr. A. C. Ramalingam, the Deputy Secretary, Mr. C. L. Gheevala, and their loyal and able band of staff for their unstinted service to the Chamber. I have no hesitation in saying that all of them have been uniformly helpful in making the task easy for the President, Vice-President and the Members of the Committee.

I now propose the adoption of the Report of the Committee and the Audited Statement of Accounts of the Chamber for the year 1957.

3. Shri Gopaldas P. Kapadia, the Incoming President, thanked the Members of the Chambers for having elected him as the President for the year and observed that he would exert himself to the utmost in carrying forward the useful work of the Chamber and would particularly endeavour to implement the various developmental activities under consideration in connection with the Golden Jubilee Celebrations of the Chamber. He availed himself of the opportunity to pay a warm tribute to the retiring President and mentioned that it was in the fitness of things that a person of such rare qualities of head and heart had presided over the affairs of the Chamber during its Golden Jubilee Year. Shri Lalchand Hirachand thanked the Members for having elected him as the Vice-President and observed that he would endeavour his best to be of service to the Chamber, and through it to the Commercial community.

4. In the discussion that followed several members participated. Shri J. B. Shah in his observations referred to the functions arranged in connection with the Golden Jubilee Celebrations of the Chamber and suggested that arrangements at such functions should be more systematically planned in order to enable the large number of members to participate in them in an adequate manner. Referring to the point made by the President in his Speech that Government's economic policy during the year had largely impaired entrepreneurial and investment confidence, Shri Shah observed that production all round appeared to be increasing and this indicated that perhaps the contention that there was dearth of capital was not quite justified. He was also of the view that instead of voicing the objections to various taxation measures of the Government of India, the business community should come forward and make concrete suggestions to Government in this regard. He strongly felt that more than any other section of society it was the middle-class that had to bear the brunt of various imposts and levies. He reiterated his view that unless labour was divorced from its political association, the situation in that regard would continue to be difficult. As a measure in the direction of removing the dissatisfaction of the labour he urged that steps should be taken for arranging for the supply of items of daily necessities such as foodgrains, vegetable oils, cloth, etc. at subsidised prices. In conclusion he complimented the re-

tiring President for the deference with which he had always patiently heard the point of view of members. Shri Chandulal Sarabhai referred to the day-to-day difficulties arising out of Customs and Port Trust procedures and urged that energetic steps should be taken with a view to finding a solution to such difficulties. He also referred to the difficulties experienced by those who sustained loss as a result of damage to their properties in Burma during the last war and expressed disappointment at the fact that even after such a long lapse of time, Government had not finalised arrangements for settling such claims. He made a reference to the Statement of Accounts of the Chamber for the year and requested clarification of certain items of expenditure such as depreciation, expenditure on heating and lighting, motor car maintenance charges, etc. Shri J. V. Bhagat particularly stressed that sustained efforts should be made in the direction of developmental activities befitting the Golden Jubilee Year of the Chamber. Shri Babubhai M. Chinai in his observations emphasized the fact that various governmental policies had led to the creation of conditions under which the prospects for formation of new capital were not really bright. He felt that the business community was passing through difficult times and at such a juncture it was necessary that all members should be united and place before Government through the Chamber their considered views and suggestions in regard to various governmental policies affecting trade, commerce and industry. He also mentioned that representatives of the Chamber on the Bombay Port Trust endeavoured to have the various procedural difficulties removed ; it often however happened that in spite of their efforts they were not always able to achieve substantial results due perhaps to unhelpful attitude on the part of the administration. Shri B. M. Choksi observed that in his view the business community had difficult times to face and in that context it was necessary that all members of the community should be united and speak with one voice. He also urged that the representatives on the various Public Bodies should take energetic steps for resolving the difficulties of members coming within the scope of the work of such Public Bodies and in doing so should prominently bear in mind the general view of the trade concerned on various points that came up for consideration before such Committees. Shri Soonderdas Morarji urged that the time had come when one should look at the problems of trade, commerce and industry more objectively and merchants should conduct themselves in such a manner which while sub-

serving their interests would also assist in the realisation of the larger objectives before the country. Shri B. A. Trivedi in his observations particularly requested the examination of the feasibility of introducing a procedure whereby at the General Meeting of the Chamber, resolutions on subjects of topical interest could be brought forward for discussion. Shri S. B. Todi felt that a sub-committee should be appointed to go into the complaints of day-to-day difficulties of members in relation to their dealings with the Port Trust and the Customs so that such a sub-committee after studying such complaints could recommend appropriate action being taken on the same. Shri N. R. Patel particularly referred to the fall in the membership of the Chamber and in suggesting a review of this aspect made detailed suggestions calculated to assist the drive for increasing the membership of the Chamber. Shri K. J. Ashar, Shri S. M. Dahanukar, Shri Jivram Tokersey, Shri Babulal Bubna and Shri K. B. Sethna also participated in the discussion.

Shri Naval H. Tata, President, then moved the following Resolution :

"RESOLVED that the Annual Report of the Committee and the Audited Statement of Accounts of the Chamber for the year 1957 be received and adopted."

Shri Gopaldas P. Kapadia seconded the Resolution and on being put to vote was carried unanimously.

5. The declaration of the result of the Election of Office-Bearers of the Chamber for the year 1958 was read by the Secretary and the same was recorded.

6. Shri Dhirajlal Maganlal proposed that Messrs. Devidas Vithaldas be appointed auditors of the Chamber for the year 1958 and that their remuneration for the work be fixed at Rs. 400. The same was seconded by Shri Mohanlal A. Parikh and on being put to vote was carried unanimously.

7. The President then presented to the Members of the Staff of the Chamber, mementos in commemoration of the Golden Jubilee of the Chamber.

8. Shri M. A. Master moving a vote of thanks to the Chair complimented the President for having guided the affairs of the Chamber in an able manner during the year. The retiring President, he observed, had not only maintained the high traditions of the Chamber but had endeavoured to set up new standard of leadership. He wished Shri Tata success

in wider spheres of activity. He also took the opportunity of welcoming the incoming President, Shri Gopaldas P. Kapadia, and observed that his ability and scholarship convinced one that with the able support of Shri Lalchand Hirachand, the incoming Vice-President, he would amply justify the confidence reposed in him.

Shri Babubhai M. Chinai and Shri Dhirajlal Maganlal joined in thanking the retiring President for the untiring zeal and sincerity with which he had devoted himself to his duties as the President of the Chamber for the year. The vote of thanks was carried with acclamation.

The meeting then terminated.

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#### CHAIRMEN OF THE INDIAN MERCHANTS' CHAMBER

1907—13	Sir Manmohandas Ramji.
1913—14	Sir Purshotamdas Thakurdas, C.I.E., M.B.E.
1914—15	Sir Fazulbhoy Currimbhoy, C.B.E.
1915—16	Sir Dinshaw Edulji Wacha.
1916—17	Sir Lallubhai Samaldas, C.I.E.
1917—18	Sir Vithaldas D. Thakersey.
1918—19	Sir Chunilal V. Mehta, K.C.S.I.
1919—20	Shri Jehangir Bomanji Petit.
1920—21	Shri Lalji Naranji.
1922	Sir Purshotamdas Thakurdas, C.I.E., M.B.E.
1923	Sir Fazulbhoy Currimbhoy, C.B.E. (from 24-2-23 to • 3-9-23).
	Shri Devidas Madhowji Thakersey (from 4-9-23 to 25-1-24).
1924	Sir Manmohandas Ramji.
1925	Sir Phiroze C. Sethna, O.B.E.
1926	Shri Lalji Naranji.
1927	Shri Walchand Hirachand.
1928	Sir Shapurji B. Billimoria, Kt., M.B.E. (from 31-1-28 to 20-3-28).

	Sir H. P. Mody (from 30-3-28 to 17-7-28) and Shri L. R. Tairsee (from 28-7-28).
1929	Shri L. R. Tairsee.
1930	Shri Hooseinbhoy A. Laljee.
1931	Sir Chunilal V. Mehta, K.C.S.I.
1932	Sir B. N. Karanjia (till November).
	Shri Mathuradas C. Matani (November to January).
1933	Sir Manmohandas Ramji.
1934	Sir Mathuradas Vissanji, Kt.
1935	Shri Manu Subedar.
1936	The Hon'ble Sir Rahimtoola Chinoy, Kt.
1937	The Hon'ble Shri Govindlal Shivlal Motilal.
1938	Shri Gordhandas G. Morarji.
1939	Shri J. C. Setalvad.
1940	Sir Chunilal B. Mehta.
1941	Shri M. C. Ghia.
1942	Shri J. C. Setalvad.
1943	Shri Haridas Madhavdas.
1944	Shri Pranlal Devkar Nanjee.
1945	Shri M. A. Master.
1946	Shri Mahomed Husein Hasham Premji.
1947	Shri Ratilal Mulji Gandhi.
1948	Shri Ramdas Kilachand.
1949	Shri Bhawanji A. Khimji.
1950	Shri R. G. Saraiya.
1951	Shri Madanmohan R. Ruia.
1952	Shri Ratilal M. Nanavati.
	Shri Pranlal Devkar Nanjee.
1953	Shri Ambalal Kilachand.
1954	Shri Chimankal B. Parikh.
1955	Shri Babubhai M. Chinai.
1956	Shri Murarji J. Vaidya.
1957	Shri Naval H. Tata.

**CHAMBER'S REPRESENTATIVES ON PUBLIC BODIES****Bombay Port Trust :**

1. Shri B. D. Somani.
2. Shri Devji Rattansey.
3. Shri Ambalal Kilachand.
4. Shri Gordhandas Jadavji.
5. Shri Mathradas Haridas.
6. Shri C. H. Bhabha.

**Senate of Bombay University**

Shri M. A. Master.

**Indian Central Cotton Committee :**

Shri Ramdas Kilachand.

**Zonal Committee of the Central Railway :**

Shri Vallabhdas V. Mariwala.

**Zonal Committee of the Western Railway :**

Shri Pravinchandra V. Gandhi.

**Divisional Railway Users' Consultative Committee of the Central Railway :**

Shri Dhirajlal C. Modi.

**Divisional Railway Users' Consultative Committee of the Western Railway :**

Lt.-Col. J. D. Kothawala.

**Goods Traffic Local Committee of the Western Railway :**

Shri Mohanlal A. Parikh.

**Port Import Advisory Committee :**

Shri Babubhai M. Chinai.

**Port Export Advisory Committee :**

Shri Sankalchand G. Shah.

**Institute of Science Advisory Committee :**

Dr. K. A. Hamied.

**Indian Sailors' Home Society :**

Shri M. J. Buch.

Shri Vikramsinh Shoorji Vallabhdas.

**Traffic Advisory Committee, Bombay :**

Shri Pravinchandra V. Gandhi.

**R. A. Podar College of Commerce :**

Shri Babubhai M. Chinai.

**Coal & Coke Advisory Committee :**

Shri Rasiklal C. Shah.

**State Transport Authority under the Motor Vehicles Act :**

Shri Dhirajlal Maganlal.

**Textile Trade Marks Act Advisory Committee :**

Shri S. P. Jain.

**Food Advisory Committee for Greater Bombay :**

Shri Ratilal M. Gandhi.

**Indian Central Coconut Committee :**

Shri P. T. John.

**State Advisory Council of Industries, Government of Bombay :**

Shri Naval H. Tata.

**Bombay State Council on Blindness :**

Shri Chandrakant S. Desai.

**Bombay City Social Education Committee :**

Shri Dhirajlal C. Modi.

**Posts and Telegraphs Regional Advisory Committee :**

Shri Soonderdas Morarjee.

**Labour Advisory Board, Government of Bombay :**

Shri Naval H. Tata.

**Regional Committee of the Rehabilitation Finance Administration :**

Sir Chunilal B. Mehta.

**Telephone Advisory Committee :**

Shri C. H. Bhabha.

**Regional Employment Advisory Committee :**

Shri S. M. Dahanukar.

**Committee for Introduction of Metric System of Weights and Measures :**

Shri Dhirajlal C. Modi.

**Senate of the S. N. D. T. Women's University :**

Shri Dhirajlal C. Modi.

**Committee of Management for the Sick and Destitute Seamen Amenities Fund :**

Shri Pratapsinh Shoorji Vallabhdas.

**TRUSTEES OF THE CHAMBER**

Shri Gordhandas G. Morarji.

Shri Chatrabhuj Gordhandas.

Shri Bhawanji A. Khimji.

Shri Ratilal M. Gandhi.

Shri R. G. Saraiya.

**OFFICE-BEARERS FOR THE YEAR 1958**

**President :**

Shri Gopaldas P. Kapadia.

**Vice-President :**

Shri Lalchand Hirachand.

**Members of the Committee :**

1. Shri K. M. D. Thackersey.
2. Dr. R. C. Cooper.
3. Shri Pallonji Shapoorji Mistry.
4. „ Madanmohan R. Ruia.
5. „ Dhirajlal Maganlal.
6. Prof. M. P. Gandhi.
7. Shri Tanubhai D. Desai.
8. „ Chandrakant S. Desai.
9. „ Someshchandra M. Nanavaty.
10. „ Dhirajlal C. Modi.

11. Shri Brijratan S. Mohatta.
12. „ Soonderdas Morarjee.
13. „ Babubhai M. Chinai.
14. „ Murarji J. Vaidya.
15. „ Ratansi Mulji.
16. „ Bhogilal C. Shah.
17. „ Pratap Bhogilal.
18. „ Pratapsinh S. Vallabhdas.
19. „ Gordhandas Bhagwandas.
20. „ Babulal Bubna.
21. „ Sankalchand G. Shah.
22. „ Dahyabhai V. Patel.
23. Lt.-Col. J. D. Kothawala.
24. Shri D. M. Desai.

**Co-opted (5 Individuals):**

1. Shri Naval H. Tata.
2. „ M. A. Master.
3. Sir Chunilal B. Mehta.
4. Shri Ramnath A. Podar.
5. „ Dharamsey M. Khatau.

**Co-opted (20 Associations):**

1. Africa & Overseas Exporters' Chamber (Shri Shantilal U. Shroff).
2. All-India Bobbins Manufacturers' Association (Shri Sohrab K. Khan).
3. All-India Footwear & Rubber Goods Manufacturers' Association (Shri Shriyans Prasad Jain).
4. All-India Razor Blade Manufacturers' Association (Shri S. M. Dahanukar).
5. Association of Electrical Undertakings (Bombay Province) (Shri N. C. Javeri).
6. Bombay Cotton Merchants' & Muccadams' Association Ltd. (Shri Kamalnayan Bajaj).
7. Bombay Grain Dealers' Association (Shri K. M. Bhujpuria).
8. Bombay Metal Exchange Ltd. (Shri Gopaldas Aggarwal).

9. Bombay Oilseeds & Oil Exchange Ltd. (Shri Mangulal Trikamlal).
10. Bombay Piecegoods Merchants' Mahajan (Shri Ratansi Champsi).
11. Bombay Rice Merchants' Association (Shri M. H. Hasham Premji).
12. Engineering Association of India (Bombay Region Office) (Shri J. V. Patel).
13. Hindustani Merchants' & Commission Agents' Association Ltd. (Shri Shivkumar Bhuwalka).
14. Indian Motion Picture Distributors' Association (Shri M. B. Billimoria).
15. Indian National Steamship Owners' Association (Smt. Sumati S. Morarji).
16. Mahratta Chamber of Commerce & Industries (Shri G. V. Puranik).
17. Pepper & Ginger Merchants' Association Ltd. (Shri Vallabhdas V. Mariwala).
18. Rayon Manufacturers' Association (Shri J. J. Ashar).
19. Surat Chamber of Commerce (Shri Ranchhoddas T. Popawala).
20. Tax Payers' Association of India Ltd. (Shri V. D. Mazumdar).

**Ex-Officio :**

1. Shri Gordhandas G. Morarji. (Trustee of the Chamber).
2. „ Chatrabhuj Gordhandas (Trustee of the Chamber).
3. „ Bhawanji A. Khimji (Trustee of the Chamber).
4. „ Ratilal M. Gandhi (Trustee of the Chamber).
5. „ R. G. Saraiya (Trustee of the Chamber).
6. „ B. D. Somani (Bombay Port Trust).
7. „ Devji Rattansey (Bombay Port Trust).
8. „ Ambalal Kilachand (Bombay Port Trust).
9. „ Gordhandas Jadavji (Bombay Port Trust).
10. „ Mathradas Haridas (Bombay Port Trust).
11. „ C. H. Bhabha (Bombay Port Trust).
12. „ Ramdas Kilachand (Indian Central Cotton Committee).

13. Shri Pravinchandra V. Gandhi (Western Rly. Zonal Rly. Users' Consultative Committee).
14. „ Vallabhdas V. Mariwala (Central Rly. Zonal Rly. Users' Consultative Committee).
- Shri A. C. Ramalingam (Secretary).
- „ C. L. Gheevala (Dy. Secretary).

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**LIST OF JOURNALS & PERIODICALS RECEIVED IN  
THE LIBRARY OF THE INDIAN MERCHANTS'  
CHAMBER**

**Quarterly :**

- Australian Journal of Agricultural Research.
- Bulletin of the Bureau of Economics & Statistics, Bombay.
- Danish Foreign Office Journal.
- Economic Trends.
- Empire Cotton Growing Review.
- \*Foreign Affairs.
- India Quarterly.
- Indian Coconut Journal.
- Indian Cotton Growing Review.
- \*Indian Economic Journal.
- Indian Journal of Economics.
- Indian Journal of Social Work.
- Journal of Indian Institute of Bankers.
- Journal of the University of Bombay.
- Kureha Textile Review.
- Labour Review (U.K.).
- Metkin Journal.
- N.B.I. Review.
- Premier Automobile Journal.
- Prerana.

Quarterly Journal of the Local Self-Government Institute.  
 Records & Statistics.  
 Rumanian Foreign Trade.  
 Social Service Quarterly.  
 Tata Quarterly.  
 Trade & Industry of Japan.

**Monthly :**

Accounts relating to Foreign Trade of India.  
 \*Agricultural Situation in India.  
 A.I.M.O. Journal.  
 Airma Official Bulletin.  
 \*Akhand Anand (Guj.).  
 American Exporter.  
 Association of British Chambers of Commerce Report.  
 Auckland Chamber of Commerce Journal.  
 Austral News.  
 Australian Exporter (Bi-monthly).  
 Austria Export (Bi-monthly).  
 Automobile India.  
 Automobile Magazine of India.  
 Autospark.  
 Bombay Civic Journal.  
 Bombay Law Reporter.  
 British Export Gazette.  
 British Italian Trade Review.  
 British Trade Journal & Export World.  
 Bulletin for Industry.  
 Bulletin of the Indian Coconut Committee.  
 Business Digest.  
 Ceylon Trade Journal.  
 Chartered Accountant.  
 Colourage.  
 Coming Events.  
 Commerce Journal.

Commercial Information (Yugoslavia).  
\*Company Cases.  
Company News.  
Czechoslovak Economic Bulletin.  
Czechoslovak Foreign Trade.  
Czechoslovak Life.  
Czechoslovak Motor Review (Bi-monthly).  
Egyptian Bulletin (Bi-monthly).  
Egyptian Economic & Political Review.  
Engineering News of India.  
Export Anzeiger.  
Exports of Australia.  
F.B.I. Review.  
Foreign Trade Digest (Canara Bank).  
\*Fortune (U.S.A.).  
French Economic & Technical Bulletin.  
German Export.  
Guaranty Survey.  
Holland.  
I.C.C. News.  
Index.  
India.  
India Magazine (German Review for India).  
Indian Concrete Journal.  
Indian Electrical Contractor & Trader.  
Indian Export Trade Journal.  
\*Indian Factories Journal (Fortnightly).  
\*Indian Labour Gazette.  
Indian Printer & Stationer.  
Indian Shipping.  
\*Indian Textile Journal.  
Indonesia.  
\*Industrial Court Reporter.  
Industrial Nottingham.

Industry & Finance.  
Information Bulletin of the Chamber of Commerce (of Rumanian People's Republic).  
Insurance and Banking.  
Insurance Review.  
International Chamber of Commerce Journal.  
International Financial Statistics.  
International Labour Review.  
Iraq News.  
I.S.I. Bulletin.  
Israel Export Journal.  
Italian Economic Survey (Bi-monthly).  
Italian Trade News.  
Japan Foreign Trade News.  
Japan Trade Monthly.  
Joint Stock Companies Journal.  
Journal of Film Industry.  
Journal of Indian Institute of Accountancy & Taxation.  
Journal of Industry & Trade.  
Journal of Motion Picture Society.  
Journal of Scientific & Industrial Research.  
Jute Bulletin.  
Khadi Gramodyog.  
\*Labour Gazette (Bombay).  
Labour Intelligence.  
\*Labour Law Journal.  
Liverpool Trade Review.  
London Chamber of Commerce Journal.  
Machinery Lloyd.  
M.C.C. Trade Journal.  
Melbourne Chamber of Commerce Journal.  
Midland Bank Review.  
\*Monthly Abstract of Statistics.  
Monthly Economic Report (Spain).

Monthly Review of Federal Reserve Bank.  
Monthly Review of Trade & Industry.  
Monthly Review of Lloyds Bank.  
Monthly Review of National City Bank of New York.  
Mysore Commerce.  
Mysore Economic Review.  
Mysore Information Bulletin.  
Netherlands, Industrial and Commercial.  
New Hungary.  
Paper Marketing News.  
Rajasthan Chamber Patrika.  
Record.  
\*Reserve Bank of India Bulletin & Weekly Supplement.  
Rubber India.  
\*Sales Tax Cases.  
State Transport Review.  
Survey of Economic Conditions in Japan.  
Swadeshi.  
Swedish Foreign Commerce.  
Swiss Industry & Trade.  
Syria Reports.  
Tad Gud Samachar.  
Tanner.  
Target.  
Taxation.  
Textile Age.  
Times Review of Industry.  
Tobacco Bulletin.  
Trade Bulletin (Hongkong).  
Transport.  
Udyog Vyapar Patrika.  
Ubersee Post.  
United Asia.  
United Commercial Bank Review.

Vaibhav.

Voltas Information.

Western Railway Magazine.

Yugoslav Commercial News.

**Weekly :**

Board of Trade Journal.

\*Bombay Government Gazette.

Bombay Market (Fortnightly).

\*Capital.

Chemical Age.

\*Commerce.

Conimcerce & Industry.

Commercial News of Yugoslavia.

\*Eastern Economist.

Eastern Metals Review.

\*Economic Review (A.I.C.C.).

Economic Review (U.K., Bi-monthly).

\*Economic Weekly.

\*Economist.

\*Gazette of India.

\*Harijan.

\*Hindu Weekly Review.

\*Income-tax Reports.

\*Indian Finance.

Indian Roads & Transport Development Assocn. Newsletter.

\*Indian Trade Journal.

International Financial News Survey.

Japan Trade Bulletin.

\*Keesings Service.

Legislative Congress Party's Bulletin (Fortnightly).

Metal Market Review.

\*New Statesman & Nation.

News from Indonesia.

News from Israel.

News from Yugoslavia.

Notes & News (Federation).

\*Shankar's Weekly.

\*Tax and Commercial Reports (Fortnightly).

Texprocil Bulletin.

Weekly Bulletin of Import & Export Trade Control  
(Licences).

Weekly Bulletin of Statistics.

Weekly Market Review.

**Occasional :**

Debates of the Bombay Legislative Assembly & Council.

\*Europa Publications.

\*Publications of I.I.O.

Reports of several Chambers of Commerce & Commercial  
Associations.

Reports of the Tariff Commission.

**Newspapers :**

Bharat Jyoti.

Bombay Samachar.

Evening News of India.

Free Press Journal.

Hindu.

Indian Express and Sunday Standard.

Janmabhoomi.

Kesari.

Lokamanya.

Nav Bharat Times.

Times of India.

REPORT OF THE COMMITTEE  
OF  
**THE INDIAN MERCHANTS' CHAMBER**

For the year 1957 presented at the 50th Annual General  
Meeting of the Chamber

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Your Committee have pleasure in presenting this 50th Annual Report of your Chamber. During the course of the year 36 meetings of the Committee were held, the work done being of a varied and important nature.

The subjects dealt with by your Committee have been grouped under the following main heads:—

- I. Transport and Communications (Page No. 1)
- II. Finance, Tariff and Taxation (Page No. 26)
- III. Trade, Industrial and Labour Legislation (Page No. 73) •
- IV. General Trade and Industry (Page No. 86)
- V. General (Page No. 116)



## I. TRANSPORT AND COMMUNICATIONS

### Freight Surcharge due to closure of Suez Canal and Liability therefor

Following the closure of the Suez Canal after the crisis in that zone, steamship companies, which were normally using the canal, decided to route their vessels via the Cape of Good Hope. To meet the increased expenditure on account of the longer oceanic voyage, shipping companies decided to levy a surcharge of 15% on freight rates for cargoes so carried by them. Issues as regards the liability for the payment of the surcharge as between the Indian exporters and foreign buyers on the one side, as also between the Indian shippers and the shipping companies on the other, had arisen in this behalf. In a communication dated the 11th February 1957 addressed to the International Chamber of Commerce, Paris, the Committee sought clarification in the matter.

The Committee pointed out that, for contracts entered into on the c.i.f. basis by Indian exporters prior to the decision for levying the surcharge on freight rates, disputes had arisen between exporters here and the foreign buyers about the question of liability for the surcharge. No difficulty was felt in regard to contracts wherein specific provision was made as to the party liable for any increase in freight rates. In regard to contracts in which there was no specific provision included, it was the buyers' contention that their liability was only to the extent of the freight which was in existence when the contract was entered into and that, therefore, the sellers should bear the surcharge in question. Sellers, however, took the stand that any increase in freight rates should be borne by the buyers, placing their reliance on a Convention to that effect. Sellers also pointed out that the very fact that certain standard contracts of Trade Associations did contain a provision fixing liability for freight increase for any reason on buyers was proof of, and pre-supposed, the existence of such a Convention. Further, while buyers argued on strictistic principles, sellers sought to point out that in equity buyers should reimburse them of their out-of-pocket expenses

in the form of increase in freight brought about due to no fault of their own.

Another point that came to the fore was concerning the liability for payment of the surcharge as between the Indian shipper and the steamship company, in respect of freight bookings entered into prior to the date of the imposition of the surcharge. Both the parties contended that the situation had been brought about due to no fault of theirs and that the same was beyond their control. Either of them argued that the other party should bear the increase. Again, shippers argued that, while as a result of the delay in arrival of vessels for picking up the cargo due to their having to traverse over a longer route, they had been put to serious inconvenience and loss, it was not fair for the steamship companies to saddle them with additional burden in the form of freight increase, especially in view of the fact that contracts were entered into even before the date of imposition of the surcharge. The Committee also drew attention of the International Chamber to the fact that some of the Conference Lines did not levy the surcharge, even though their vessels also had to go round the Cape of Good Hope, in respect of contracts entered into before the relevant date for shipments of Oils in bulk, for the carriage whereof it was the practice to enter into firm contracts.

The Secretary-General of the International Chamber of Commerce in his reply dated the 22nd Feb. 1957 expressed that it was not possible to advocate a general and absolute position to the two questions raised by the Committee, viz. c.i.f. contracts and Transport contracts. However, he added that in principle, it might be considered, as regards c.i.f. sales that, if Indian exporters had conducted business on this basis, at a fixed price, without making any reservation in the contract for any variations in freight rates—subsequent to the conclusion of the sales contract—the buyer might claim the price originally stipulated to be final, or, in other words, unless otherwise stipulated in the sales contract, variations in freight rate or in other elements of the c.i.f. prices in no way affected the agreement of the parties. But, this principle might be set aside, in practice, by considerations re: intentions of the parties, with the result that such interpretation of the

agreements of the parties might vary according to the Law Courts applied to. As regards Transport contracts also, the Secretary-General mentioned, everything depended upon the general or particular terms stipulated by the parties concerned as well as on any similar fact which might be taken into account as to the intentions of the parties.

### Re-introduction of the Stamped Shipping Orders

The question of introducing a system of stamped shipping orders was under consideration of Government and it had invited the views of the Federation of Indian Chambers of Commerce & Industry on the same and the Federation had, in turn, invited the views of the Chamber on the subject. It was suggested that the present practice of issuing a shipping order by Shipping Companies did not oblige a steamship company to accept the cargo nor did it oblige a shipper to ship the cargo by a particular steamer. In the absence of any contractual obligations, it was pointed out, there were occasions for complaints that cargoes had been shut out even after space had been promised in a particular steamer. Such difficulties had led to an examination of the question of the feasibility of introducing the practice of issuing stamped shipping orders as was in force prior to the Second World War. The Committee in a communication dated 18th January 1957, addressed to the Federation, expressed the view that notwithstanding occasional complaints and difficulties in the matter of obtaining freight space, the experience of the existing procedure had been by and large satisfactory. Moreover, the present procedure also vested in the shipper an element of liberty in determining as to whether he should or should not avail of the freight booking made earlier with a particular shipping company by a specific steamer. This proved to be of advantage on occasions when, due to reasons beyond his control, the shipper found it impossible to adhere to his commitment. If the practice of issuing stamped shipping orders was introduced, the shipper on such occasions would be obliged to bear the additional burden of dead-freight notwithstanding the fact that he was not able to utilise the freight space offered in spite of his efforts to do so. The Committee, therefore, requested the Federation to convey to Government that both from the point of view of shipping companies as

also of shippers the present practice was working satisfactorily and that therefore no steps should be taken to introduce any element of rigidity in the same.

### Surcharge on Freights

The Committee in a communication dated 4th May addressed to the Karmahom Conference referred to the surcharge then recovered by shipping companies since the closure of the Suez Canal and the diversion of the ships through the Cape of Good Hope. The Committee pointed out that since shipping was once again free to make use of the Suez Canal, it was but appropriate that the Conference should review this aspect and announce at an early date the withdrawal of the surcharge on freights levied and recovered in the context of circumstances and for reasons which no longer obtained. The Karmahom Conference in their reply dated 11th May 1957 informed the Committee that the question of the removal of the surcharge imposed by them was constantly under review. Subsequently, the surcharge was brought down from 17½% to 10% and then again to 5%. The Committee in a further communication dated 3rd June 1957 pointed out that the surcharge was levied as a result of the increased cost of operation of the ships occasioned by their having to ply through a longer route. Since the ships were now again passing through the Suez Canal, it was not reasonable to continue to levy any additional surcharge. They, therefore, requested that the Conference should again review the matter and withdraw the surcharge of 5% on freight rates. The Karmahom Conference in their reply dated 12th June informed the Committee that the surcharge had been progressively reduced and the position was being reviewed very closely and constantly.

### Increase in Freight Rate on Jute Goods from Calcutta to Bombay

The Committee in a communication dated 17th June addressed to the Indian Coastal Conference referred to the action taken by the Coastal Conference lines in stepping up the rate of freight on jute goods shipped from Calcutta to Bombay with effect from 8th April 1957. The Committee

pointed out that the enhancement in the rate of freight on jute goods brought to Bombay from Calcutta would mean a corresponding increase in their prices to those who used them as containers or packing materials and the latter in turn would be reflected in the prices of several articles of consumption. The sudden increase in freight rate would mean a financial loss to those importing supplies of jute goods directly from Calcutta for distribution and sale in Bombay market. Moreover, the distributive trade of Bombay would also be affected by this increase in freight charges on jute goods from Calcutta to Bombay. The Indian Coastal Conference in their reply dated 29th June informed the Committee that the increase was effected after giving, as usual, two weeks' advance notice and was found necessary in the interest of the economic operation of the ships. This revision was not expected to materially affect the price of packing materials. Moreover, even with this increase the gunny trade enjoyed a very substantial advantage in moving their goods by sea-route as compared to the railway-route.

#### Difficulties in procuring Freight Space for Shipment of Hessian and Gunnies from Calcutta to Bombay

The Committee in a communication dated 28th June addressed to the Indian Coastal Conference referred to the difficulties experienced by Members of the Bombay Hessian and Gunny Merchants' Association in procuring freight space for shipment of hessian and gunny bags from Calcutta. Such a position would lead to the interests in this line, who had entered into commitments for delivery of supplies, on the assumption that normal steamer facilities would be available for bringing the supplies covered by their commitments to Bombay from Calcutta, being put to considerable inconvenience and loss. The Committee, therefore, requested that suitable arrangements be made so as to obviate difficulties of the type referred to.

The Indian Coastal Conference in their reply dated 5th July in explaining the position gave details of the vessels that loaded general cargoes including gunnies at Calcutta for Coastal Conference Ports during the period from January/June 1957, which indicated that there were in all 9 berthings

for Bombay for lifting general cargoes including gunnies during the period under reference which in their view was adequate having regard to the availability of cargoes. It was added that while the shipping lines were doing their utmost to serve the trade, there were difficulties in the way which were beyond their control. However, in spite of all-round delays to shipping, the shipping companies were endeavouring their best to cater to the needs and requirements of the trading community as a whole to the maximum extent possible.

#### **Liability of Internal Air Service in respect of Injury or Damage caused to Passengers or Goods**

The Indian Carriage by Air Act was enacted with a view to giving effect to the convention for unification of certain rules relating to rights and liabilities of carriers. The convention defines the liability of air carriage for injury or damage caused to passengers or goods. The same applies only in respect of international carriage by air. Section 4 of the Carriage by Air Act however specifically empowers Government to make rules extending the provisions of the convention to internal carriage by air by issue of a notification in that regard. Such a notification has not so far been issued. In the absence of a specific legal provision governing the rights and liabilities of internal carriage by air the liability of the air service would be governed by the terms and conditions of the special contract entered into by the carrier with the consignor of the goods. At present, according to the terms and conditions stipulated for the contract the liability of the Indian Airlines Corporation for compensation, in the event of loss or damage to goods, is limited to a small specified sum. This position was creating difficulties on occasions when valuable parcels were lost while in transit. The consignor had no remedy for obtaining adequate compensation. This had in some cases led to litigation. The Committee in a communication dated the 30th September 1957 addressed to the Government of India referred to the above position and urged that the notification contemplated in Section 4 of the Carriage by Air Act should be issued applying the rules governing the liability of the air service to international air traffic to internal air traffic as well. Government, in their reply, informed the

Committee that the question of extending the Indian Carriage by Air Act, 1934, to domestic air service was under examination and it would take some time before a final decision in the matter was taken.

### Trend of Overseas Trade during the next Financial Year

The Docks Manager, Bombay Port Trust, had requested the Committee to let him have their views on the probable trend of overseas trade during the next financial year. The Committee in a communication dated 25th September pointed out that it would be a little difficult to express an opinion in regard to the trend of the overseas trade during the next financial year on account of the uncertainty caused by development of conditions of scarcity in foreign exchange resources of the country. The export trade during the year 1956-57 did not increase commensurately with the import trade in that year and the export earnings, in fact, were slightly below the level of 1955-56. This had a serious impact on the balance of payments position and as a step in the direction of conserving the foreign exchange resources Government have had to enforce a very restrictive import policy since June 1957. While Government were concentrating on steps designed to secure promotion of the export trade of the country, it was apparent that so long as the foreign exchange difficulties continued, Government would have to follow a very restrictive import policy although imports of items like machinery equipment and industrial raw materials would have to continue, on a substantial scale. On balancing the various considerations, therefore, it was felt that the level of overseas trade during the next financial year would be maintained and some improvement in the export trade of the country might also be reasonably expected. In short they expected that the position of the overseas trade during the coming year would not in any case be materially affected.

### Bonded Warehouse for Air-freight Packages and Parcels

The Committee in a communication dated 12th August 1957 addressed to the Central Board of Revenue referred to the earlier correspondence on the subject in which the Committee had emphasized the need for providing facility for

bonding of articles imported as air-freight, as such a facility would assist the merchants desiring to re-export the goods to some other destinations. Moreover, in items such as films, such a facility would provide an opportunity for deciding upon the fact whether the articles should be cleared from the Customs or not for being put to use in the country. In the absence of such a facility the goods in question had first to be cleared on payment of import duty and if, subsequently, it was decided that such goods did not meet with the requirements of the situation, they had to be shipped back; the importer in the process had to undergo needless expenses and procedural formalities. Government had agreed to allow such articles imported by air-freight to be bonded in private warehouses under conditions to be stipulated by the Collector of Customs. The Committee, however, pointed out that it would be difficult for any private organization to work such a bonded warehouse. They, therefore, reiterated the need for Government providing the facility of a bonded warehouse for articles imported by air.

Government in their reply dated 4th September 1957 informed the Committee that the goods imported by air could be kept in a public or private bonded warehouse if the importer so desired. The only public bonded warehouse was that of Bombay Port Trust. If a warehouse at the Santa Cruz airport was desired, the Director-General of Civil Aviation in India must be approached to move in the matter.

#### **Imposition of Time-limit for filing of Applications for Remission of Demurrage Charges paid to the Bombay Port Trust .**

The Bombay Port Trust imposed, with effect from 1st April 1956, a time-limit of two months from the date of payment of charges for receipt of applications, complete in all respects, for grant of remission of demurrage charges.

The Committee in their letter dated the 9th September addressed to the Bombay Port Trust pointed out that a large number of importers were not aware of the revised position and, therefore, could not adhere to the reduced time-limit of two months for submitting applications for remission of demurrage charges, and were surprised to learn from the

Port Trust authorities that, since their applications, complete in all respects, were not submitted within a period of two months from the date of payment of the relevant charges, same could not be entertained. Several members were *bona fide* not aware of the revised time-limit, nor were they quite clear as to what was required of them in order to make their applications 'complete in all respects'; in many cases applications though made quite in time were not accompanied by certain documents, which in the view of the Port Trust would make such applications complete in all respects; moreover, the said notice had not indicated any specific documents which should accompany the refund applications. In such circumstances, the Committee added, rejection of applications for remission of demurrage on the ground that they were not submitted within the time-limit of two months, though technically correct, could not be considered to be fair to the parties concerned. They, therefore, requested the Port Trust to review the matter and, as a special case, permit such claims for remission of demurrage charges being deemed eligible for consideration and decision on their merits.

The Port Trust in their letter dated 22nd October 1957 informed the Committee that the point in relation to the requirements of applications for relief in demurrage charges being accompanied by relevant documents had been considered and that it was now decided, as a concession to the trade, that applications for remission of demurrage charges, even if not accompanied by the relative invoice, would be entertained if received within the stipulated period of two months, provided they were complete in all other respects. It was however added that should a reference to the invoice be found essential during the examination of the claims for the purpose of verification, it would be incumbent on the applicants to furnish the invoices within a reasonable period when called upon to do so.

The Committee in a further letter dated 19th December suggested that besides invoices, the Port Trust chhapas should also be included in the concession announced, so that applications for relief, submitted within specified time would be entertained even though the relevant invoices and Port

Trust chhapas were not forwarded along with such applications.

### **Storing and Stacking of Goods in the Docks**

The Committee in a communication dated 21st December addressed to the Bombay Port Trust reiterated the need for an improvement in the arrangements regarding the storing and stacking of goods in the docks. The Committee pointed out that while the Port Trust administration was endeavouring to effect improvements in the procedure in this regard, complaints were still received to the effect that goods kept in a particular godown were, before they could be taken delivery of, removed to some other godown. The importer did not have any advance information in this regard which made it very difficult for him to trace his goods and take delivery of the same. The Committee therefore requested the Bombay Port Trust to further look into this aspect. In this connection, they particularly suggested that goods comprised in a consignment should be stored as far as possible in one godown and that arrangements should be made for necessary intimation in this respect to the importer. Even if it was found necessary to transfer any consignments from one warehouse to another, arrangement should be made to inform the importers concerned to that effect. Such an arrangement would considerably facilitate the trade in locating the imported cargo.

### **Transfer of Consignments of Iron and Steel to Haji Bunder Dump**

The Committee had in the past drawn the attention of the Port Trust to the difficulties experienced by merchants as a result of the removal of the consignments of iron and steel to the Haji Bunder Depot. The Committee in a further communication dated 23rd April addressed to the Bombay Port Trust on the subject recalled the assurances then given by the Port Trust that the trade would be given an opportunity for clearing the consignments from the docks proper provided they cleared the goods within a couple of days of landing before the goods were transferred to the dump. The Committee pointed out that the position had since im-

proved and yet they continued to receive complaints to the effect that importers desiring to arrange for clearance of the goods from the docks proper immediately after the goods were landed were not able to do so, as the goods in question were immediately removed to the Haji Bunder Dump. The Committee requested that suitable departmental instructions should be formulated for this purpose and passed on to the departments concerned urging the desirability of making all efforts to see that importers desirous of taking delivery from the docks direct were normally afforded all the facilities in this direction.

### **Installation of a Weighbridge at Haji Bunder**

The Committee in a communication dated 21st June addressed to the Bombay Port Trust drew attention to representations made to them regarding the need for the provision of a weighbridge at Haji Bunder. With the greater and more frequent use of Haji Bunder for the dumping of heavy iron and steel materials, the absence of a weighbridge at Haji Bunder had been causing considerable difficulty and expenditure for the interests importing the materials in question. They, therefore, urged that the Port Trust should give early consideration to the suggestion for the provision of the facility of a weighbridge at Haji Bunder. The Port Trust in their reply dated 17th July 1957 informed the Committee that having regard to the aggregate quantities of iron and steel requiring weighment, it was felt that it was not necessary to provide an additional weighbridge at Haji Bunder dump.

### **Reduction in the Free Period for the purposes of Loading and Unloading of Wagons**

The Committee in a communication dated the 20th April 1957 addressed to the Government of India referred to the steps taken by the Railway Board in reducing the free time allowed to the trade wherever the loading and unloading was required to be done by consignors or consignees respectively from 6 hours to 5 hours. In this connection they pointed out that apart from the question of difficulties in arranging unloading of wagons in the reduced period there

was also the question of consignors not being able to arrange for wagons within the reduced free period. In order to enable them to do so it was necessary that a consignor should have sufficient advance intimation about the wagons being placed at his disposal. The Committee pointed out that in many cases consignors were not able to have sufficient advance intimation with the result that they were finding it difficult to complete the loading of wagons within a period of 5 hours. They, therefore, requested that necessary instructions be issued to the various railway administrations with a view to ensure that consignors were afforded sufficiently advance time for making the necessary arrangements connected with the bringing of supplies to the sheds for being loaded into wagons.

### Provision of Coal Supplies for Industrial Units

The Railway Board had invited the views of the Committee on the proposal for opening of Central Coal Dumps at important industrial consuming centres and transhipment points to take advantage of the available transport during the periods when the railway was in a position to collect more wagons. They had also invited the views of the Committee on the question of organizing a suitable machinery to work these dumps. The Committee in a communication dated 30th May 1957 addressed to the Government of India expressed themselves as being in agreement with the principle underlying the scheme. They pointed out that inadequacy of coal had been a source of constant worry to industrial units and that, therefore, provision of coal supplies to the factories on a continuous basis was very essential. Lack of adequate transport was the main contributory factor for such a position and the Committee agreed that the efforts to put up coal dumps for storing coal supplies through the facility of relatively augmented transport during the slack season therefore would be of significant assistance. As regards the question of instituting the machinery to work such dumps, the Committee suggested that a Conference of representatives of all organized associations in a particular region should be convened so that such a Conference could discuss and evolve a suitable machinery to work the scheme in a given region.

### **Claims in respect of Missing Coal Wagons**

It was represented to the Committee that difficulties were experienced by industrial interests getting their coal requirements from mines in West Bengal and other centres as a result of delay in the matter of settlement of claims over the Railway Administration in respect of missing coal carrying wagons and getting the necessary costs or refunds covered by these claims. It was pointed out that the amount of cost of the coal was recovered from the parties who took delivery of the wagons misdirected and was made good to the actual consignees in course of time. It was however in regard to obtaining of refunds of freight charges paid for the wagons that serious practical difficulties were experienced. The Committee in a communication dated 25th September 1957 addressed to the Government of India referred to the above representations and suggested that a suitable modification should be brought about in the procedure for obtaining refunds in such cases so that the complaints of this nature would be obviated and settlement of refund claims would be made with the least possible delay.

Government in their reply dated 31st October 1957 informed the Committee that a procedure had since been evolved for expeditious disposal of claims for refund of freight charges in respect of consignments booked under "paid" and/or "weight only" basis. It was further suggested that specific cases of complaints in this regard should be brought to the notice of the General Manager of the Railway Administrations concerned who would look into the matter and take suitable action.

### **Compensation for Claims preferred against Railways in respect of Loss or Damage of Goods consigned over Railways**

In a communication dated the 25th July 1957 addressed to the Ministry of Railways (Railway Board), the Committee drew attention to the inordinate delays experienced by the commercial community in the matter of getting claims for loss or damage to goods consigned over the Railways settled. They particularly mentioned that there was noticeable a

tendency on the part of the Railway Administrations to delay finalisation of claims preferred against them and when suits concerning such claims became time-barred to repudiate the liability of the Administrations in regard to such claims.

The Committee, therefore, requested that Government should issue necessary instructions to the Railway Administrations to settle claims preferred against them as expeditiously as possible, and such claims, which owing to passage of time became barred by the Indian Limitation Act, should be referred to the Railway Board for consideration, before the authorities repudiated the same.

Government in their reply dated 22nd August 1957 informed the Committee that instructions had been already issued to the Railways that they should not only sustain but also intensify their efforts to ensure expeditious disposal of claims. Regarding claims which had become time-barred for suit, Railways made a reference to the Railway Board when the claimants had been regularly pursuing the matter, and the claims had become time-barred for suit not due to any laches on the part of the claimants.

### Dining Cars on Railway Trains

It was understood that the Railway Board was thinking in terms of progressively cutting down the Dining Cars on some of the trains of the different Railway Administrations. The underlying object of the proposal was to assist the efforts for reducing overcrowding in third class compartments by augmenting the third class capacity of the Railways to that extent. The Committee in a communication dated 25th September 1957 addressed to the Government of India in the Ministry of Railways pointed out in this connection that while the measures directed towards relieving the overcrowding in trains could be appreciated, it was necessary to bear in mind that the system of Dining Cars could not be entirely dispensed with without putting the travelling public to a good deal of inconvenience and difficulties in the matter of getting their food requirements particularly during long journeys. They therefore suggested that if action in this regard had to be taken, then instead of completely abolishing the Dining Cars in the various trains, the space at present usually

reserved or occupied by these cars should be restricted or reduced to the extent necessary and in such a restricted space provision should be made for a small kitchen as also arrangements for storing cooked food, canned articles, etc. for being served to the passengers in their compartments. In any case Dining Cars in the trains should not be entirely dispensed with.

#### Difficulties in the matter of Clearance of Goods from the docks during the period in which Influenza was prevalent in the City

The Committee in a letter dated the 12th June 1957 addressed to the Bombay Port Trust pointed out that influenza epidemic had been prevailing in the city in a more intensified form since the 27th May 1957. Along with other activities in the city, the work in the docks was very much affected because of the enforced absenteeism of workers laid up with Flu, and consequently the work of clearance of goods from the docks was very much delayed. They therefore suggested that the days covered by the week starting from Monday, the 27th May 1957 should be treated as *dies non* for the purpose of levy and collection of demurrage charges on cargoes detained in the docks.

The Committee urged similar relief in the case of wharfage charges accruing on consignments which could not be taken delivery of at destinations due to non-receipt of Railway receipts by the consignees from the consignors owing to the fact that the postal service during the period was considerably affected. The Bombay Port Trust in their reply dated 26th July 1957 informed the Committee that during the period in question, the position in regard to clearance of goods from the docks was quite satisfactory and in view of that there was no justification for the declaration of *dies non* during the prevalence of the influenza epidemic. The Railways in their reply informed the Committee that the remission of wharfage and demurrage charges was being granted on the merits of each case and that it was not possible to issue a general directive not to collect such charges during the period of flu epidemic.

### Delay in issue of Railway Receipts at Wadi Bunder

From time to time, representations were received by the Committee in regard to the difficulties arising out of the delay in issue of Railway Receipts by the Central Railway in respect of goods booked at Wadi Bunder. This aspect was brought to the notice of the Chief Commercial Superintendent, Central Railway. At his request, details of specific instances of delay in the issue of Railway Receipts were also sent to him. The Chief Commercial Superintendent in his reply dated the 28th November 1957 pointed out that while in some cases there was delay in the issue of Railway Receipts, delay occurred mainly on account of the following reasons:

- (a) Delay in the taking of the goods to scales;
- (b) Delay in rating; and
- (c) Misplacement of Forwarding Note by the staff.

In regard to the causes of delay it was pointed out that the time lag in acceptance was attributable to inadequate wagon supply leading to fresh acceptance being held up as unless the accepted goods were cleared, fresh goods could not be taken on the scales. Moreover, about 4,000 invoices were issued at Wadi Bunder daily and it was quite natural that there would be a few cases of doubts regarding rating, which were held up for clarification. As regards misplacement of Forwarding Notes, the matter was being taken up with the staff concerned and necessary instructions were being issued to avoid a recurrence. It was, however, pointed out that the wagon supply position at Wadi Bunder had since improved due to which delays in acceptance had been reduced considerably. Consequently, there were no delays in the issue of Railway Receipts and even if these did occur they did not exceed 48 hours. Steps were also being taken to obviate delays in the issue of Railway Receipts particularly in respect of textile traffic.

### Quick Transit Service over the Railways

The Committee in a letter dated the 5th September 1957 addressed to the Chief Operating Superintendent, Central

Railway, drew attention to the fact that the scheme of Quick Transit Service over the Railway, instituted sometime back on the basis of a surcharge of one pice per Rupee on the normal freight rates, had not been working properly since the month of July last, and as a result consignors of goods, who intended to have their consignments moved from Bombay to certain principal centres with the minimum of delay in terms of the Service were put to hardship and inconvenience. Whereas the scheme envisaged registration of booking one or two days in advance of booking which was accepted twice a week, lately registrations were accepted without reference to the day on which the goods were to be accepted for booking. The Committee requested that, if for reasons of seasonal rush over the Railway or otherwise, acceptance of booking regularly twice a week as originally scheduled was not possible for some time the Railway should accept booking of goods under, and operate, the scheme at least once a week and that the procedure of booking thereunder should be suitable revised.

The Central Railway in their reply dated 17th September 1957 regretted that due to operational difficulties, it was not possible to run the quick transit service regularly during the month of July 1957. The position had since improved and the Service was run regularly.

#### Issue of Railway Receipts in respect of Consignments of Cotton Cloth Bales

In respect of cotton cloth bales consigned over the Railways the practice is to issue one Railway Receipt for each consignment. Each such consignment is covered by a movement permit granted by the Textile Directorate. Under the relevant rules a consignor is not entitled to submit more than one application for movement permit in favour of a consignee on one single day. If therefore the consignor wished to have separate Railway receipts for different lots comprised in the consignments he would not be able to do so even though such arrangement would be a great facility in the ultimate arrangement for disposal of different lots comprised in the consignment. The Committee in a communication dated 19th December addressed to the General Managers of the

Central and Western Railways referred to this position and requested them to consider the feasibility of making arrangements for issue of separate Railway receipts for different lots of cotton cloth bales comprised in a consignment even though such lots were being sent to one common consignee.

### Overcrowding in Trains on the Bombay Suburban Section

The Central Railway had invited the views of the Committee on the question of staggering of working hours in Bombay as a measure to bring about an improvement in the position created by the overcrowding in trains on the Bombay suburban section. The Committee in a communication dated the 23rd March 1957 addressed to the General Manager, Central Railway, pointed out that there was already a measure of staggering of working hours for the different activities in the City of Bombay, with the result that the peak periods of travelling were spread over a number of hours beginning from early morning until about 11-30 a.m. and between 5-00 p.m. and 8-30 p.m. The Committee were not sure whether there was any room for extension of staggering of working hours. After all, the working of the commercial and industrial organizations was interlinked to the functioning of other essential services such as banks, insurance companies, port trusts, etc. In attempting staggering of the working hours of such different activities, the aspect of co-ordinated functioning could not be lost sight of. The Committee, therefore, suggested that the suggestion regarding staggering of working hours should be examined in detail after taking into account the various aspects referred to above. For this purpose, a Conference of representatives of various organisations and interests directly concerned should be convened so as to afford them an opportunity for a fuller examination and discussion of the suggestions made by the Railways in this regard. A reference in this regard was also received from the Western Railway and in reply they were acquainted with the views of the Committee on the subject. Subsequently, the Western Railway convened a meeting of various representative-interests to consider the question regarding staggering of working hours on Monday, the 3rd June 1957. Shri Dhirajlal Maganlal attended the meeting as the representative of the Chamber. Arising out of the discussion at the meeting, it was decided

that, to facilitate further discussion on the subject, a Questionnaire should be formulated to elicit detailed information having a bearing on the problem of overcrowding in the trains. The draft of the Questionnaire was forwarded to the Committee and after perusing it and having considered the same, they have requested the Western Railway to make arrangements for circulation of the same amongst the public.

### Rents of Plots in Byculla Goods Yard

The Committee in a communication dated 30th September addressed to the Chief Commercial Superintendent, Central Railway, referred to representations received in regard to the difficulties experienced as a result of the decision to raise rents of plots in Byculla Goods Yard. The Committee pointed out that whatever be the reasons which according to the Railway, justified a significant rise in the rents of plots, it would have been fair to the interests concerned to have given them advance notice of the contemplated rise. Moreover, it would appear that the decision to raise the rents was being implemented with retrospective effect. The Committee urged that the action in terms of the decision should be stayed and the interests concerned should be notified about the contemplated rise in the rent, explaining at the same time the circumstances under which it had been found necessary to effect such an increase.

### Freight Rate for Movement of Lead-antimonial

Representations were received by the Committee to the effect that various Railway Administrations were determining the classification applicable to lead-antimonial differently with the result that suppliers in Bombay were handicapped owing to the freight charges from this centre to the centre of destination coming to be comparatively more than from alternative supplying centres to the common destination. The Committee, therefore, in a communication dated 3rd May 1957 addressed to the Indian Railways Conference Association urged that the question of fixing the proper classification applicable to lead-antimonial for purposes of freight charges should be reviewed and in doing so the question of bringing about uniformity over the various Railway Administrations in

this matter should be kept prominently under consideration. They also suggested that since lead-antimonial was very much akin to lead, the classification applicable to antimonial lead for the purpose of the freight charges should be that applicable to lead ingots.

### Grant of the Facility of Acceptance of Sender's Weight

As published in the Report of the Chamber for the year 1956, the Committee had addressed the Central Railway asking for some clarification arising out of the scheme laid down for the extension of the facility of acceptance of sender's weight on a more elaborate scale. In particular they had stressed the need for the consignors or consignees, as the case may be, being entitled to refund of charges accruing from a re-weighment or re-measurement of the goods consigned over the railways. The Central Railway in their reply dated 20th April informed the Committee that while under the Rules there was no provision for a claim for refund of freight charges if the weight of any of the consignments on re-weighment was found to be less than the weight declared by the sender, there was no objection to claims for refund being preferred in such cases; the administration would, however, reserve its right to make whatever investigation it considered necessary for deciding whether or not the request made for refund could be acceded to. No rules, however, could be laid down for the purpose of investigation or disposal of such claims.

### Dislocation in the Western Railway Train Service

As published in the Report of the Chamber for the year 1956, the Committee had addressed the General Manager of the Western Railway drawing his particular attention to the instances of breakdown in the suburban services of the Western Railway and urging suitable action being taken, with a view to obviate the difficulties, the passengers were put to, on occasions of such breakdown in the services. The Western Railway authorities in their reply dated the 9th January 1957 informed the Committee that the question of the punctual running of passenger trains was receiving constant and close attention of the Administration. Explaining the particular

circumstances in which the breakdown in the services had occurred on particular days in the month of November 1956, it was pointed out that a thorough enquiry was conducted in regard to these accidents and remedial measures were taken to avoid a recurrence. It was further pointed out that there was a progressive increase in the number of trains over the last few years and the late running of one train for one reason or the other affected the performance of the other trains. It was also added that all possible measures were being taken to give correct information to the public on occasions when there was a breakdown in the service.

### Re-conditioning of the Narbada River Bridge on the Bombay-Ahmedabad Road

The Committee in a communication dated 19th June 1957 addressed to the Government of Bombay referred to the fact that the existing road bridge over Narbada river was not, perhaps, sufficiently strong to withstand the traffic generated by the movement of heavy trucks. This fact would possibly come in the way of the Bombay-Ahmedabad highway being intensively used for the movement of goods. The Committee, therefore, suggested that the bridge in question should be reconditioned so as to permit the same being used for passage of heavily loaded trucks.

Government in their reply dated 16th July informed the Committee that the plans and estimates for the work of remodelling the existing bridge across Narbada river and providing power-ferry service across the river during the remodelling work had been forwarded to the Government of India for their sanction. The work would be started as soon as the sanction was received.

### Trunk Telephone Service

As published in the Report of the Chamber for the year 1956, a representation had been addressed to the Director-General of Posts & Telegraphs in regard to the difficulties experienced by the public and the trading community in particular as a result of the unsatisfactory working of the trunk telephone service. They had urged that the Authorities

should take all possible steps in the direction of gearing up the trunk telephone system and had particularly suggested that the existing trunk telephone lines between centres of commercial and industrial importance should be suitably enlarged, so that the ever-increasing pressure on traffic could be met. The Director-General of Posts & Telegraphs in his reply dated 19th July 1957 informed the Committee that the trunk telephone communications between Bombay and Delhi had been improved with the installation of new arrangements in January 1957, since when the delay on this route had been brought down immensely.

As regards delay on calls between Bombay and Calcutta, it was pointed out that action was being taken to avoid copper wire thefts on Jamshedpur-Hirji section, which was the main cause of frequent interruption on the section and of excessive delays on trunk calls on this route.

#### **Delay in Arrangements in the shifting of Telephones**

The Committee in a communication dated 10th December addressed to the General Manager, Telephones, Bombay District, Bombay, referred to the representations occasionally received in regard to the difficulties experienced on account of the delay in arrangement for the shifting of telephones found necessary as a result of the shifting of the premises and/or offices occupied by the subscribers. The Committee pointed out that if the request of the subscriber for shifting of telephones to the new premises was not made as early as feasible, the same would result in considerable inconvenience particularly in respect of telephones in a business office. The Committee, therefore, requested him to issue suitable instructions with a view to ensure that requests for shifting of telephones from subscribers occasioned by a change of residence or business office were attended to without any avoidable loss of time.

#### **Delay in the Conveyance of Airmail Traffic between Bombay and Centres in Saurashtra**

The Committee had received a representation to the effect that the commercial and business interests in some of the important centres in Saurashtra were experiencing difficulty as

a result of the delay in receiving posts sent to them by their constituents in Bombay. This was mainly occasioned by the fact that the mail for such centres was being arranged to be sent by trains. The Committee in a communication dated 8th Feb. 1957 addressed to the Postmaster-General, Bombay, referred to the above representation and suggested that he should consider the feasibility of making arrangements whereby the conveyance of the mail emanating from Bombay to centres in Saurashtra would be expedited. In this connection, they referred to a suggestion that mails emanating from Bombay should be conveyed to important centres in Saurashtra like Porbandar, Rajkot, etc. by air. As the centres were served by a regular air service on 4 days in a week, it would not be difficult to arrange for the conveyance of the mail by air. The Committee requested the Postmaster-General to examine this aspect and to do the needful in the matter at an early date. The Postmaster-General in his reply dated the 18th February 1957 informed the Committee that arrangements had been made to carry mails by air for and from Porbandar on days the Air-service for and from Porbandar was operating.

### Provision of Post Offices in Suburban Stations

In their letter of the 20th July 1957 addressed to the Postmaster-General, Bombay, the Committee suggested the need for the provision of post offices in the more important suburban stations of the Railways in Greater Bombay, as the same would prove to be a welcome facility to the ever-increasing population of Bombay and the growing number of people using the suburban services for attending to their business and avocations. They pointed out that in some of the continental countries like Switzerland, there were small post offices in the Railway Stations or just in their immediate vicinities. Similar facilities in Bombay would be really helpful and would be greatly appreciated by the public.

### Post Box Order, 1956

By an order called the Post Box Order, 1956, the Directorate-General of Posts & Telegraphs had revised the rules for the allotment and use of Post Boxes and Post Bags.

One of the provisions of the Order was that "only articles addressed to the renter of the Post Boxes would be delivered through the boxes and articles addressed to persons or firms 'Care of' Post Box would not be delivered through the box. The Committee in a communication dated 8th February 1957 addressed to the Director-General of Posts & Telegraphs pointed out that the enforcement of the proposed provision would prove to be a hardship especially in the case of communications addressed to the Directors and/or officials of the company or the firm having a post box number. In most cases communications addressed to directors and/or officials and executives of the firm, in personal names, pertained to official business of the firm, and it was unfair to suggest that such communications should not be cleared through the post box rented out to the firm or company. The Committee, therefore, suggested that the particular provision should be reviewed, and if necessary, to guard against a general use of the post box by others, the firm or the company in question might be required from time to time to submit to the Department a list of its officials and executives and communications addressed to such persons by name should be deemed to be eligible for clearance through the post box belonging to the firm. The Director-General in his reply dated the 4th March 1957 informed the Committee that the renter of the post box alone could be entitled to get the delivery of articles through the post box and the use of post box by a person not entitled to its use was a misuse of the post box system. It was therefore regretted that the suggestions made by the Committee in the matter could not be accepted.

### Revised Postal Tariff

The Committee in a communication dated 6th December addressed to the Postmaster-General, Bombay, referred to the fact that even though the revised postal tariff rates were introduced with effect from the 18th September 1957, the tariff guide containing information concerning such revised rates was not available at the different post offices for the information of the public. They, therefore, requested him to make arrangements at an early date for making available copies of the Tariff Guide at the Post Offices for the guidance of the public.

### List of Abbreviated Postal Addresses

The Committee in a communication dated 6th December addressed to the Director-General of Posts and Telegraphs referred to the fact that the list of abbreviated postal addresses had not been revised and brought up-to-date since the same was published in the year 1950. In view of the usefulness of the publication especially to the mercantile community who had on frequent occasions to send telegraphic communications to the suppliers or clients in the different parts of the country, the Committee requested him to arrange for taking in hand the work of revising the list of abbreviated addresses and publish an up-to-date edition thereof.

## II. FINANCE, TARIFF AND TAXATION

### Budget Proposals of the Government of India for the year 1957-58

The Committee in their Press Note dated 20th May 1957 expressed their views and comments on the Budget of the Government of India for 1957-58, a summary of which is as under:

The Committee at the outset pointed out that the Budget was bold and unprecedented, imposing at a stretch, a heavy burden of new or additional taxation on the country amounting to Rs. 93 crores per annum, and that the magnitude of the overall burden, since the starting of the Second Plan period, had been of the order of nearly Rs. 175 crores. The Committee mentioned that "the main theme and the dominant concern" of the Finance Minister in the framing of his budget was to raise the finance necessary for the success of the Second Plan and this fundamental driving power had also made him utilise the opportunity "for imparting a new turn to our tax structure towards greater efficiency and equity". They averred that time alone could show how far and to what extent the ideals of efficiency and equity would be reached and attained. They urged that the measures adopted should be such as not to cause such strains and stresses on the economic and social life of the country as would come in the way of the raising of the standard of living of the people, and make it impossible for savings to accumulate and thus discourage the growth of investments and capital formation. The Committee felt that the adverse effect of the proposals in the budget, as a whole, on the existing standards of life—not to say anything about raising the present standards—did not seem to have been fully appreciated by the Finance Minister; they were convinced that the proposals could not generate new "incentive for larger earnings and more savings" indicated as an important justification by the Finance Minister himself for their imposition. According to the Committee the disquieting food situation and the rise in prices of cereals in certain parts of the country underlined the need for taking more energetic measures to augment agricultural production in the country as otherwise any serious

lag or shortage in food supplies would seriously jeopardize the implementation of the Plan according to schedule. Referring to the "restraining of consumption over a fairly wide field" as one of the criteria, the Committee expressed that it was necessary to remember that in an under-developed economy, there was an imperative need to raise the standard of living by increasing the consumption standards from the present sub-marginal level and the fact of a pent-up demand for basic necessities of life set serious limitations to the acceptance of this criterion as a basic objective of the fiscal policy of the country. The Committee invited the earnest attention of Government to the nature and extent of the policy of financing capital expenditure out of revenues. Since the Plan had begun, the additional taxation of the Centre alone had been of the order of Rs. 175 crores. This would mean financing, by way of additional taxation, to the tune of Rs. 875 crores during the period of the Plan from the Centre alone. This did not cover the taxation to be levied by the States. The Committee mentioned that it was difficult to say whether any new burdens, by way of fresh or additional taxation, would be imposed during the remaining period of the Plan or not. Whatever be the magnitude of the Plan, the Committee opined, its ultimate implementation would depend upon the capacity of the economy to generate the rate of savings and the capital formation so necessary to build up adequate volume of investment and this was the broad and general approach of the Committee towards the consideration of the proposals embodied in the budget. With these preliminary observations, the Committee offered their views on some of the proposals. The increase in the rate of corporate taxation as well as the new tax on Wealth of companies would not be conducive to the objective of maintaining and preserving incentives for larger earnings and more savings. The imposition of the tax on wealth was not accompanied by a corresponding reduction in the rates of the existing measures of direct taxation. It was necessary that the Government should reconsider the matter and give further relief in respect of direct taxation on individuals and Hindu undivided families.

While the relief in respect of earned income should be welcome, as the same was calculated to serve as an incentive

to individual savings, at the same time the burden of corporate taxation should be lowered, instead of being stepped up. From that point of view, if the penal tax on bonus shares was to be increased, it was reasonable to expect that tax on excess dividend distribution should have been completely abolished. Taxation both on excess dividends and on bonus issues simultaneously was difficult to justify in the context of the overriding need for providing incentives to corporate enterprise.

While it was gratifying to note that the compulsory distribution by companies engaged in industries and coming within the purview of Section 23A was lowered to 45%, the benefit resulting from the reduction in distribution percentage to 45% in the case of industrial concerns would stand nullified by the imposition of a Wealth Tax on companies. The proceedings before the Commissioner of Income-tax and the Board of Referees in respect of manufacturing companies should be abolished.

It was doubtful whether the wealth tax could be justified particularly when there was need to secure the rapid economic development of the country. No distinction had been made between productive wealth and unproductive wealth and such a distinction ought to have been made in all fairness. The levy on corporate enterprise was highly objectionable. Equity capital had been shy as a result of various tax imposts affecting corporate enterprise and wealth tax on companies, in addition to impeding the formation of new companies, would only act as a serious dis-incentive in the case of existing ones. Further, companies not having income or even incurring losses would also be liable to this tax. Taking into account the provision enabling a carry-over of losses for the purpose of seeing that capital depletion did not take place, as a result of fiscal measures, a tax of this type on companies was most inappropriate and was not called for. In view of the imperative need for nursing corporate enterprise, the levy on wealth of companies was not justified at all.

Further the wealth of a corporation came from the investments made by the shareholders in the undertakings. In the first place, these shareholders would have to pay a wealth tax on that part of the wealth of corporate undertakings, which they had invested in those corporations. In the second

place, the corporation would pay again the wealth tax on the same asset. The Government would as such be having the wealth tax paid to them twice on the same asset. Further, if the country had to maintain the export drive and if the industries participating in the international sphere had to preserve their place and position in the world market, their competitive capacity should not be in any way impaired. Moreover, at a time when the country was anxious to attract investment of foreign capital, the proposed tax on wealth of companies would act as a serious deterrent to intending investors from abroad. The provision not to duplicate the Wealth Tax in respect of private companies should extend to all companies.

The expenditure tax had no parallel in the tax system of any country. Even in advanced countries like the U.S.A., the proposal for imposition of expenditure tax, although considered, was ultimately given up on account of the administrative difficulties involved. The increase in the rate of tax over Rs. 60,000 was 4% to 8% and this rate for the higher income slabs giving the effective rate of 77% to 84% already provided for a higher levy and this factor automatically took cognizance of the extra spending factor. Such a levy, therefore, nearly approximated to an expenditure tax unless it was assumed that in rare cases persons with higher incomes spent less than those with lower incomes in these slabs. The proposal to levy the expenditure tax on assessee whose income was Rs. 60,000 or more, leaving persons below that income to spend in any manner and to any extent they liked, created an anomalous position. At present, the Department added back a substantial amount if drawings of an assessee were not commensurate with his status in life. With the imposition of an expenditure tax, a sort of a facility would be granted to those persons who had moneys outside their books to be utilised with a plea that with the imposition of an Expenditure Tax, the expenditure as such had been curtailed. A measure of this nature was, therefore, bound to put a premium on assessees, who did not have their affairs straight. Even the Taxation Enquiry Commission had not examined this revolutionary suggestion. The path of wisdom and statesmanship lay in dropping the measure altogether.

The all-round increase in indirect taxation seemed to be based on the third criterion postulated by the Finance Minister, viz. restraining of consumption over a fairly wide field so as to keep in check domestic inflationary pressures and to release the resources for investment. In the considered opinion of the Committee, the cumulative incidence of a number of increases in indirect taxes would result in pushing up the cost of living and would also have its impact on the wage structure. It was also a question whether taxation measures by themselves were anti-inflationary and there could not be any guarantee that the revenue from such taxation would necessarily be utilised for developmental purposes. The Finance Minister had justified the levy of excise duties partly as a measure of giving a fillip to the export trade. It was a moot point whether the increase in excise duties could, by itself, significantly help to achieve that object.

It was gratifying to note that Government had appointed a high-powered Committee to go into the aspect of public expenditure thoroughly and it was to be hoped that as a result of the recommendations that might be made by this Committee, it would be possible for Government to take concrete action in the direction of cutting down the level of civil expenditure to the minimum extent possible and avoiding wasteful expenditure.

The overall burden of increased taxation on the community was such as was beyond its capacity to bear. In this context, a taxation measure of this magnitude could be avoided to a certain extent by a rational phasing of the Plan. Even though it might not be practicable to phase the Plan as a whole, especially with regard to the main developmental projects, there appeared to be scope for such phasing in respect of other schemes and projects, without seriously affecting the tempo of our economic progress. Such a course would go a long way in spreading, if not reducing, the financial burden on the community as a whole. Another factor which should be prominently taken into consideration in the formulation of the fiscal policy was the income potential of the community. It was absolutely necessary that the tax measures should be so regulated as to maintain, nurse and stimulate savings, both corporate and individual, instead of

the same being utilised on a progressive basis to divert useful resources to the State only, crippling the resources at the disposal of the citizen. With the progressive implementation of the Plan and the consequent increase in the income potential of the country as a whole, the revenue resources available to the State were also expected to be augmented, thus enabling the State to obtain the necessary resources for implementing the Plan without unduly straining the capacity of the individual to meet tax burdens.

The higher rates of excise on articles of daily consumption like sugar, tea, coffee, vegetable oils, tobacco and matches would inevitably result in raising their prices substantially, leading thereby to an increase in the cost of living and consequent demand for wage increases, that the levies on items like steel and cement would add materially to the capital cost of the Plan expenditure as also development expenditure in the private sector and that cumulatively the changes in direct taxation of the individual and companies would have adverse effects on the incentive to work and save. The lowering of the tax-free slab from Rs. 4,200 to Rs. 3,000 would rope in a large number of the lower middle-class group who had been already subject to high cost of living consequent upon the various indirect levies. There was a legitimate ground for the apprehension that, if we did not hold the price line and the inflationary forces persisted in pushing up the cost of living and consequently the cost structure of the industries, the same might as well result in nullifying the anticipated benefit from the rise in national income at the end of the Second Five-Year Plan.

Finally, initiation of changes in tax structure as would make tax yield progressively more responsive to increased incomes and facilitate an orderly development of the economy with due regard to the social objective the country had adopted, would stand implemented only in theory because the result of the changes being effected might ultimately be that the country would get diminishing returns and for the sole objective of not making the Plan flexible at all the very productive sources might get crippled. Some flexibility and adjustment in the Plan outlay would not matter particularly when foreign resources and supply of capital goods were not

available to the country according to the estimates made. If this was done, a rational readjustment of the tax structure to make it less burdensome might not be difficult.

Closely following this, an informal meeting of the representatives of the affiliated Associations of the Chamber was convened on 25th May 1957 to ascertain their views and reactions. A Special General Meeting of the members of the Chamber was called on 14th June 1957 to elicit their views on the Budget Proposals. A deputation from the Chamber, led by Shri G. P. Kapadia, the Vice-President, waited on the Union Finance Minister on Saturday the 22nd June 1957 and during the course of the interview conveyed to the Minister the views of the Committee on the Budget Proposals.

*Memorandum addressed to the Government of India re:  
Taxation Proposals:*

The Committee forwarded on 11th July a detailed memorandum to the Government of India, in the Ministry of Finance, containing their views and observations on the Taxation Proposals embodied in the Budget for the year 1957-58 as also on the various clauses of the Bills introduced in the Parliament to give effect to the financial proposals. A summary of some of the more important suggestions and observations is given below:

- (1) Taxation measures should be so regulated as to maintain, nurse and stimulate savings, both corporate and individual, instead of the same being used on a progressive scale to divert resources to the public sector only, crippling in the process the resources at the disposal of the Private Sector.
- (2) While the burdens imposed by new taxation during last 15 months were beyond the capacity of the country to bear, the future could not be contemplated with equanimity if all the resources to cover the expected gap of Rs. 858 crores or even a very substantial part thereof would have to come out of additional taxation during the next three years of the Second Plan period.
- (3) The real resources available to the country were not adequate for launching upon a Plan of the specified

magnitude, and since the country would not be able to bear the burden of taxation at the rates contemplated as also deficit financing on any large scale, a more realistic approach in the matter was called for.

- (4) The strain and stress on the tax-paying public should not be of such a magnitude as to impair confidence and create a feeling of utter disappointment, and if as a result of appreciation in prices the cost of the Plan went up, the logical remedy would lie in confining the lay-out to more essential projects.
- (5) In fixing the lay-out for the Plan, no consideration had been shown for the income potential as a result of the huge Investment programme and this factor itself should warrant a proper readjustment of the Budget estimates and after taking due cognisance of such income potential the need for resort to further and heavier taxation might not exist.
- (6) Initiation of changes in tax structure in order to make tax yield more responsive to increased incomes and facilitate an orderly development of the economy would stand implemented in theory alone, inasmuch as the net result of changes being effected might ultimately be that the country would get diminishing returns and for the sole objective of making the Plan not flexible at all the very productive sources would get crippled.
- (7) Resort should have to be made to a well-regulated borrowing programme and credit terms as also the participation of the industrially advanced countries for the setting up of industries in our country and such a method would mean a rational readjustment of the Budget lay-out. The process of finding out more than 10 per cent of the resources for capital outlay from the revenue resources could not at all be justified.
- (8) There was an imperative need which had been stressed from different quarters for keeping non-developmental expenditure to the minimum level

*possible so as to make increasing resources available for development activities.*

- (9) Constant vigilance, critical analysis and continuous economy in connection with the cost of running the administration of the country and that of running the Plan were the inevitable needs and responsibilities of the times.
- (10) On the economic position being reviewed from time to time, and a proper readjustment and lay-out being made of the Plan fulfilment and the budgeting of the relevant items, the need for resorting to heavy additional or fresh taxation might not exist and, therefore, a realistic approach and a reasoned consideration was called for.
- (11) With the heavier and additional taxation corporate enterprise in the country would find it extremely difficult to function properly, let alone the question of incentives to save and invest being provided. If the unfavourable climate for capital formation in the country continued it would have serious repercussions on the successful implementation of the Plan itself.
- (12) Dividend income, which was the produce of equity capital and which was the life-blood of corporate enterprise, should be treated as earned income and taxed as such.
- (13) Ploughing back of profits was essential and if for facilitating such ploughing back excess distribution of dividend was penalised, there was all the more reason for the total abolition of the tax on bonus issues.
- (14) In any event, the simultaneous levy of a tax on excess distribution and on bonus issue was a contradiction in terms and could not be justified on any fair and reasonable grounds.
- (15) The reduction of the distributable minimum to 45 per cent made available to Sec. 23A Industrial companies should also be given to trading companies coming under the purview of that Section

and carrying on such business which helped in earning foreign exchange.

- (16) As regards the proposed tax on wealth its levy was neither wise nor justified, particularly when rapid economic development of the country was the prime need of the hour.
- (17) Wealth Tax on companies being a tax on productive capital would not only divert productive resources from the Private Sector to the Public Sector but would also act as a damper on corporate investment as a whole and should not therefore be imposed.
- (18) The imposition of wealth tax on corporate undertakings would seriously deplete their financial resources and the impact of these new burdens would not only cripple their competitive strength but might also in cases like Shipping Companies, affect their very existence and should therefore be dropped altogether.
- (19) The imposition of the Wealth Tax on Individuals and Hindu Undivided Families could, in any event, be thought of only after a very substantial reduction in the personal rates of taxation had been made and such a levy could, if at all, be justified only with the rate of the highest slab being brought down to the maximum of 50 per cent.
- (20) If, however, the Wealth Tax should remain, the following amendments would be required to be made in the Wealth Tax Bill:
  - (a) Wealth usefully employed for industrial and incidental purposes should remain exempt whether tax be on individuals, Hindu Undivided Families, Partnerships and Associations on the one hand or on companies on the other;
  - (b) In addition to companies coming under the purview of Sections 15C and 56A of the Indian Income-tax Act being exempted from the levy it was necessary to exempt the share-

holders of such companies also from the levy in regard to their respective shareholdings;

- (c) The test for determining the imposition of wealth tax on companies should not be whether the shares were held in the hands of particular individuals but whether the wealth of the respective Companies was employed for industrial, commercial or such incidental purposes which contributed to the economic progress of the country and if the assets were so employed, the respective wealth should remain exempt from the purview of the Wealth Tax legislation;
- (d) The valuation of business assets should be on the basis of the cost *less* all the depreciation allowable for it under the Income-tax Act. In respect of non-business assets the proper method should be to take the cost or market value whichever was lower and in case the Department desired to put a higher value the assessee should have the option of selling that property or asset in question to Government at the value fixed by Government for purposes of wealth tax levy. Tax on the basis of market values would be an amount of collection out of all proportion and might have its impact on the very existence of industries in this country;
- (e) In case of business and other assets, the tax should not be levied unless such assets earned a net profit of at least 6 per cent on their capital value. The value of goodwill should be excluded in calculating net wealth unless the goodwill amount was actually realised;
- (f) Public charitable trusts, non-profit-making associations, whether registered under the Companies Act or not, which had no business activity as such, should be exempted from the provisions of the legislation under separate section;

- (g) Foreign property owned by Indian citizens, whether agricultural or not, should not be subject to this levy. In any event, exemptions should be given in respect of properties situated outside India from which the owners were not able to receive the benefits due to remittance difficulties;
- (h) In all cases where the assessee was regularly preparing balance-sheets the valuation date should conform to the date on which the balance-sheet was prepared, whatever the previous year for other sources of income of the assessee;
- (i) Where assets were held by court of wards, administrator-general, trustees, etc. and wealth tax levy was made on them in respect of such assets, they should be given first charge on the income of the asset for payment of the tax due on the same;
- (j) Liability of agents in respect of properties owned by persons not resident in India should extend to a resident agent only where the agent in question had absolute control over the property or wealth as if it belonged to him;
- (k) With regard to any dispute of valuation, the same should be referred to independent persons as arbitrators and the proceedings conducted under the Indian Arbitration Act;
- (l) The power of review vested in the Commissioner should not be confined to cases where the decision of the Wealth Tax Officer was prejudicial to revenue but should also extend to all cases where the assessee felt that justice was not being done to him;
- (m) Right of appeal should also be provided from order imposing a penalty in the course of recovery of the wealth tax due from an assessee;
- (n) Income-tax Practitioners should be allowed to appear before the Wealth Tax Authorities;

- (o) The minimum net wealth not liable to tax should be increased to Rs. 5 lakhs in the case of Individuals, Rs. 7 lakhs in the case of Hindu undivided families and Rs. 10 lakhs in the case of Companies. As in the Estate Duty Act, over a particular range, assessment of wealth tax should be made by Inspecting Assistant Commissioners and above a still further range by Commissioners;
- (p) The most inequitous part of the wealth tax levy being the incidence of double taxation, with a view to remove this obnoxious feature, the concession contemplated under Rule 2 of the Schedule should also be made available in respect of companies, public as well as private, including Sec. 23A Companies;
- (q) The Wealth Tax being a totally new measure great care should be taken in its administration. Officers below the rank of Commissioner should not be vested with any powers of search and as far as possible check up of wealth should be done by resort to voluntary declarations and income-tax assessment records and coercive methods should not be employed for this purpose;
- (21) The Expenditure Tax, being a measure having no parallel in the tax system of any country and being very difficult to handle administratively, the imposition of the same would not at all be desirable and should be dropped altogether.
- (22) If, however, the levy was to remain, the following amendments were required to be made in the relevant Bill:
  - (a) The definition of the term "Expenditure" should be modified in such a way that it would mean only a pure item of expenditure as such and any expenditure which was related to gross income under any one of the items

of charge under Income-tax Act should not mean an item of expenditure. In other words, expenditure should include only items other than those creating an asset or money or money's worth;

- (b) Definition of the term "Dependent" should be extended so as to include parents, brothers, sisters and other relations who were entirely dependent upon the assessee for their means of livelihood;
- (c) All expenditure incurred on relatives, whether they be near relations or not, should be excluded from Expenditure Tax;
- (d) The items of expenditure listed below should also be exempted from this tax:
  - (i) Medical fees and other expenses incurred for health reasons;
  - (ii) Contributions made to charities;
  - (iii) All expenses incurred on training or education either of the assessee himself or his dependents, in India or abroad;
  - (iv) Expenses of foreign tour for business purposes or for attending International Conferences;
  - (v) Expenses incurred on pilgrimage or for fulfilling public engagements;
  - (vi) Funeral, birth and other religious expenses;
  - (vii) Expenditure incurred in repairing or replacing of immovable property or for repairing loss due to theft, burglary, fire or flood, etc.;
  - (viii) Expenses incurred for defending person or property in legitimate law suits;
- (e) Items like Jewellery, Furniture, Motor cars, etc. in respect of which only 1/5th of their value was to be excluded from taxable ex-

penditure being asset items should be left out of the purview of the Expenditure Tax altogether and only the expenditure thereon should be taken into consideration;

- (f) The power of review by the Commissioner should extend to all cases of injustice and not confined to cases where it was prejudicial to revenue.
- (g) Minimum allowance available to an assessee should be raised to Rs. 36,000 from Rs. 24,000 on the distinct understanding that the various exemptions asked for were not disturbed.

Representatives of the Chamber met the Select Committee of the Lok Sabha re: Wealth Tax Bill and Expenditure Tax Bill on Saturday, the 3rd August 1957, and reiterated some of the salient points arising out of the detailed memorandum earlier submitted by the Committee.

### Enquiry by the Finance Commission

The Committee submitted a detailed Memorandum of their views and observations on the problems to be examined by the Finance Commission in the light of the terms of reference to the Commission which, amongst others, included the question of distribution of taxes on income other than Corporation tax, the basis on which the States' share of income from taxes should be distributed, etc. The Committee pointed out that following the recommendations of the first Finance Commission, the revenues derived from taxes on income other than the Corporation tax were divided between the Centre and the States on the basis of 55 to 45%. Having regard to the various factors which should be taken into consideration in deciding upon the distribution of the income-tax between the Centre and the States, the Committee felt that the States, as recommended by the Expert Committee on financial provisions, should be permitted to share the net proceeds of taxes on income to the extent of 60%. On the question of the basis on which the States' share should be distributed among the various States *inter se*, the Committee felt that while no single factor could be uniformly applied

for this purpose, attributability rather than needs should be given more emphasis. The first Finance Commission had recommended that a State's share of income-tax should be 80% on the basis of population and 20% on the basis of collection of income-tax of a State. The Committee expressed the view that the factor of population was unjustifiably emphasized and consequently, the State of Bombay, which was making increasing contribution to the Central Pool in the shape of income-tax revenues, was not receiving adequate share. The Committee were of the opinion that viewed from any angle, the case for a substantial increase in the share of Bombay in the total shared revenues from income-tax was irresistible, inasmuch as, both from the point of view of the population of the reorganised State and its contribution to the Central Pool, the case of Bombay for an increased share in the income-tax allocations rested on sure grounds. Referring to the commercial and industrial importance of the State of Bombay which, in turn, made it possible for the State to make a handsome contribution to the income-tax pool, the Committee pointed out that in an industrial State, there were certain special problems, such as the existence of a large number of towns and cities in which large population was concentrated. It was necessary that steps should be taken to tackle the problems created by the conditions of the concentration of population, such as the maintenance of law and order, hygenic conditions, slum clearance, etc. This called for colossal expenditure and, the Committee submitted, the State should be able to derive a greater benefit out of the proceeds of the taxes on income and other imposts made possible through pursuits and avocations of the peoples of the State. Otherwise, the very reasons which enabled them to contribute largely to the Central fisc might lead to the imposing on them greater tax burdens at the hands of the State Government in its efforts to find resources to meet expenditure necessitated by the conditions referred to herein. The Committee also pointed out that the State had endeavoured its utmost to find resources for expenditure in terms of the targets laid down by the Planning Commission and in that process, the people of the State were heavily taxed. The people were, therefore, justified in expecting that the Centre would allocate a fair share

likely to be caused as a result of the amendment to the Income-tax Act by the introduction of sub-sections (2B) and (2C) to Section 10 of the Act expressed the hope that Government would take all steps necessary so that the administration of the Rules was so conducted as to smoothen the working of the Deposit Scheme envisaged by the said sub-sections of Section 10 of the Indian Income-tax Act. They made the following suggestions on some of the Draft Rules:

**Rule 2(2):** Referring to sub-rule (2) of Rule 2 which defines the term "approved purpose" it was suggested that amounts utilised in the lay-out for the stock-in-trade, stores and other outstandings and advances made for the business as well as on trade items should be treated as made for approved purposes. In short only the lay-out during the particular year in extraneous investments and for surplus cash should be considered for the purposes of deposit while the remainder should *ipso facto* be treated as laid out for an approved purpose.

**Rule 2(8):** Regarding sub-rule (8) of Rule 2 which defines the term "statutory surplus" it was suggested that it should be clearly provided that the income to be taken into consideration for the purpose of arriving at the statutory surplus should be the income ascertained according to commercial principles and not the assessable income, since by having the basis of the assessable income disallowable items like donations and other necessary expenses which go out of the coffers of the company but which are, due to certain provisions contained in the Act or for other technical reasons, added back to the assessable income, would not remain in the hands of the Company and the cash resources of the Company would stand depleted to that extent and yet the Company would be called upon to make a deposit in respect of the same. It was also suggested that speculation losses should be taken into account in arriving at the statutory surplus and that deductions in respect of the tax payable by the companies should include all the taxes payable under the Act.

**Rule 3:** In respect of Companies having income in countries like Pakistan which prevent remittances from their countries it was suggested that the income to be taken into

consideration for the computation of deposit should be that portion of the total income that arises within India.

**Rule 10:** The 6% interest payable on deficit amounts of deposits under sub-rule (1) of Rule 10 should not be insisted upon and in the alternative it should be made clear that the amount of interest paid by a company according to this sub-rule should be included in the total amount to be available for refund. Again in fairness to the company, it is desirable that allowances should be given to the extent to which a company is actually able to make the deposit; and where the company is able to make only a part deposit, part allowances should be given and the whole amount should not stand forfeited.

**Rule 11(1):** Since the Draft Rules relate only to deposit of current profits, refunds for utilisation in approved purposes should be granted out of the current profits deposits irrespective of the accumulated profits and reserves of the company having been utilised or not for the purpose.

**Rules 14 & 15:** With regard to this Rule, it was suggested that before the Board of Referees pass any order regarding the amount to be refunded it should give an opportunity to the party to submit its case and explain its position before the Board as had been provided in sub-sec. (4) of Sec. 23A of the Act.

**Rule 16:** Non-officials having business experience should be included in the Board of Referees that Government may appoint under this Rule.

The Committee of the Chamber suggested that the following categories of Companies should also be exempted from making any deposit:

- (1) Companies entitled to exemption under Sec. 15C of the Income-tax Act;
- (2) Companies whose assessable income is nil or minus;
- (3) Companies registered under Sec. 25 of the Companies Act, 1956;
- (4) Companies which have borrowings and have no extraneous investment or surplus cash and Companies

where the extraneous investment and surplus are less than the borrowed amounts.

Regarding the rate of deposit it was suggested that the same should be 37½% and not 50%.

In respect of non-manufacturing companies with limited capital resources and limited amount of fixed assets but having a very large income every year it was suggested that an overall provision should be made in the Rules to the effect that the deposit amount in their cases should in no case exceed 50% of the amount of depreciation and/or the development rebate allowance for a particular year since in their case the allowance by way of depreciation may be of a small magnitude but in order to avail of the advantage of the allowance of such amount the working now visualized by the rules might entail a very heavy deposit, totally out of proportion to the amount of depreciation allowance.

### Compensation to Shareholders of the Life Insurance Companies

In a communication dated the 24th July addressed to the Ministry of Finance, the Committee drew attention to the fact that, in spite of the long period that had elapsed since Government's action in nationalising Life Insurance business in the country, the question of compensation to the shareholders had not so far been prominently brought to the fore and the necessary decision arrived at respecting the same. They pointed out that the moneys of a good number of people, who might have invested their savings in the shares of Life Insurance Companies, were, as a result, locked up, and they were not getting any return on the same by way of dividend as also could not utilise them for investment or business in alternative avenues. The inordinate delay in the matter of payment of compensation naturally engendered a feeling of suspense and anxiety in the minds of those affected.

The Committee, therefore, urged that in the case of such of those Life Insurance Companies in regard to which there was no adequate cause for delaying compensation payment, and the minimum quantum of compensation generally, which was not in dispute, compensation should be paid off imme-

diately without any avoidable delay. Also, in case payment of compensation was unduly delayed for whatever reason, the shareholders concerned should be given a reasonable rate of interest of their share amounts.

The Life Insurance Corporation of India in their reply dated the 31st August informed the Committee that the principles according to which the amount of compensation had to be determined varied according to as the insurer came under Part A, Part B or Part C of the First Schedule to the Life Insurance Corporation Act. Out of 68 companies which fell under Part A, the amount of compensation had been determined by the Corporation in respect of 57 companies and after obtaining the approval of the Central Government, compensation had been offered to them. As for companies falling under Part B it was necessary for the purpose of computation of the amount of compensation, to get the accounts made up as at 19th January 1956 and also undertake the actuarial valuation as at that date. A considerable amount of work was involved; even so, compensation had already been offered to 8 such insurers. For co-operative or mutual institutions, the compensation was payable to the policyholders in the form of an addition to the sum assured under their policies. Such addition had already been credited to the respective policies in November 1956.

#### Meeting with the Member (Income-tax), Central Board of Revenue

The Committee as well as the Law Sub-Committee and the Income-tax Sub-Committee met Shri V. V. Chari, Member (Income-tax), Central Board of Revenue, on Thursday, the 26th September 1957. The following issues were raised by the Committee in the Memorandum that was placed before Shri Chari:

- (1) Section 18A of the Indian Income-tax Act—Imposition of Penalty.
- (2) Extension of time for filing of returns of income, etc.
- (3) Bad Debts.

- (4) Section 2(6A)(e)—Treatment of Advances to shareholder as dividend.
- (5) Sections 42 and 43.
- (6) Setting off Speculation Losses against Speculation Profits.
- (7) Payment of Taxes on Disputed amounts.
- (8) Issue of Refunds.
- (9) Allowance of Legal and Accountancy Expenses.
- (10) Payments for Charitable Purposes—Relief to partners.
- (11) Current Profits Deposits.
- (12) Powers of Appellate Assistant Commissioners.
- (13) Assessment of Firms.
- (14) Section 49C.
- (15) Reliance to be placed on Books of Accounts of Assessee.
- (16) Assessments to Income-tax of Trade Associations, Chambers of Commerce, etc.
- (17) Group System of Working.
- (18) Wealth Tax Returns.
- (19) Arbitration Proceedings under the Wealth Tax Act and the Estate Duty Act.
- (20) Rule 2 of the Schedule to the Wealth Tax Act.
- (21) Assessment to Wealth Tax of Trade Associations, etc.

The following is a summary of the replies given by Shri Chari to some of the points raised for discussion:

In regard to the point about Imposition of Penalty—Section 18A of the Indian Income-tax Act—Shri Chari approved the suggestion made by the Committee that, while penal interest might be charged on merit, imposition of penalty should be made only in cases where there was deliberate attempt at concealing a source of income or deliberately under-stating an item of income, and not otherwise. In his opinion, since charging of penal interest under the Section did not amount to an adjudication of any issue, no provision for

an appeal was therefore necessary in this behalf. In regard to the point about bad debts, Shri Chari stated that usually bad debts were being allowed wherever there was *prima facie* evidence concerning the same and added that if the Department was satisfied that a debt became bad in a particular or in a subsequent year, it would be allowed in the year in which it became so bad. Dealing with the suggestion that loans and advances actually paid off by a shareholder, otherwise than from dividend, should be treated as proper payments back and that no cognizance be taken in respect of those items in the assessment of the shareholders, and that when a loan or advance remained actually outstanding the inclusion by way of dividend should only be to the extent of the share of the particular shareholder in the reserves and surpluses on the basis his holding had to the total share capital of the concern, and not to the full extent of the loan amount, he pointed out that the provision had been in existence only for a very small period and that he would take note of the grievances of the assesses in this behalf for careful consideration. Shri Chari was of the view that Sections 42 and 43 were in no manner hampering the export trade of the country and invited reference to the various Circulars issued by the Central Board from time to time clarifying the position re: liability of non-resident exporters and of Indian importers of machinery on instalment payment basis and expressed that, if the only operation in India was the receipt of Bank documents and payment of money thereon, no assessment would be made on accrual basis. Shri Chari agreed with the suggestion made by the Committee that speculation profits should first be allowed to be absorbed by speculation loss carried forward and that the balance alone should be set off against losses from other sources, instead of the existing practice of arriving at the assessable income by setting off speculation profits against losses under other sources before setting off speculation loss carried forward. Regarding keeping in abeyance payment of taxes on disputed amounts till disposal of appeals or reference at the final stage, Shri Chari said that under the law such keeping in abeyance was restricted upto the stage of the disposal of appeal by an Appellate Assistant Commissioner and that it was impossible to give a definite formula to be applied in all cases, but added that every case would be examined on its

merits and in extremely hard cases tax on disputed amount could be deferred till the disposal of the final appeal or reference. As regards the complaint that refunds were not being issued quickly, Shri Chari asserted that the complaint was not quite correct and that in 95% of the cases refunds were granted straightaway. Shri Chari stated that the practice of allowing Lawyers' and Accountancy fees as expenses in connection with the settling of income-tax liability could not be extended to expenses incurred at higher stages of appeal or reference, as, in his view, the existing position was quite generous and most of the work of accountants would have been completed before the Income-tax Officers. In regard to assessment of Wealth Tax of Trade Associations, etc., Shri Chari clarified that trade associations, chambers of commerce, etc., even though not registered under Sec. 25 of the Companies Act, 1956, would be exempt from Wealth Tax.

### The Wealth Tax Act, 1957

According to the instructions contained in Circular No. 3-WT of 1957 dated 28th September 1957, issued by the Central Board of Revenue containing instructions on location and valuation of assets under the Wealth Tax Act, 1957, it has been provided that where the value of the assets representing immovable properties cannot easily be ascertained in a manner therein indicated, the Wealth Tax Officer should be empowered to adopt the capital value of the property determined by the appropriate authority in the latest assessment for purposes of property taxation. Where such Municipal valuation was too low by reason of the rents received being small or where no valuation had been made by any Municipality or where the property was situated in a locality in which there was no Municipality, the Wealth Tax Officer had been authorised to estimate the reasonable annual value of the property and determine its capital value as a multiple, say, twenty times of such annual value. The Committee in a communication dated 29th November addressed to the Central Board of Revenue in this connection, pointed out that it would be unfair and inequitable to assess the capital value of property by way of multiplying its annual value by 20 times. They felt that the capital value should not exceed 15 times the net annual value of the property after deducting all

the taxes paid in respect of the property as well as the cost of repairs, insurance and other reasonable expenses incurred in connection therewith. The Committee requested that the instructions in this behalf should be suitably modified on the lines of the suggestions made by them.

### Wealth Tax Act, 1957—Difficulties experienced by Companies re: Computation of Profits, etc.

It was represented to the Committee that with the coming into force of the Wealth Tax Act, 1957, those in charge of affairs of Joint Stock Companies in the country were put to certain doubts in the matter of the correct treatment of the amount payable by companies by way of wealth tax while ascertaining the assessable profits thereof for purposes of income-tax, and also for arriving at the net profits within the meaning of Sections 348 and 349 of the Companies Act, 1956, for calculating the remuneration of Managing Agents and/or Directors. The Committee in a communication dated 30th December addressed to the Government of India in the Ministry of Finance requested them to clarify the point whether the amount of Wealth Tax payable by a company could be deducted for arriving at the assessable profits for income-tax purposes and for calculating the net profits for payment of remuneration to Managing Agents and/or Directors. The Committee requested Government to issue necessary clarification by way of a circular as early as possible.

### Wealth Tax Act—Sections 45(d) and 5(1)(xxi)

In a communication addressed to the Central Board of Revenue, the Committee pointed out that in drafting Clause (xxi) of sub-section (1) of Section 5 of the Wealth Tax Act, the intention of the Select Committee did not appear to have been fully implemented. While under Section 45(d) exemption was available even to companies incorporated before the coming into operation of the Wealth Tax Act and it was clear from the Report of the Select Committee that they had intended that similar relief should be given to companies which undertook substantial expansion of their undertakings, the exemption available under Clause (xxi) of sub-section (1) of Section 5 had however been confined to new units set up

after the commencement of the Act. The Committee, therefore, felt that there had been some inadvertence in the drafting of Section 5(1)(xxi) and requested Government to make the necessary amendment for making the benefit under Section 5(1)(xxi) available to new units established by existing companies even before the coming into operation of the Wealth Tax Act and in the meanwhile to allow the benefit under executive instruction.

#### Disposal of Appeals by Appellate Assistant Commissioners during the pendency of similar issues before the High Courts

The Committee in a communication dated the 3rd April addressed to the Central Board of Revenue referred to the representations to the effect that the hearing of appeals pending before the appellate assistant commissioners of income-tax involving issues similar to those decided upon by a High Court in favour of the assessee were being postponed from time to time in certain cases on the ground that the decision of the High Court was being taken up in appeal before the Supreme Court, and in other cases disposing of appeals pending before the appellate assistant commissioners involving issues similar to those pending before a High Court by expediting their disposal without taking into consideration the requests made by assessee for postponement of such cases pending the disposal of the reference before the High Court. As a result of this approach made by the Department in the disposal of the appeals, the assessee were put to great financial strain inasmuch as on the one hand they were deprived of the benefits of the decision of the High Court in their favour by way of refund and on the other they were required to comply with a demand for payment of taxes arising out of the disposals of appeals against them. As an instance in point, the Committee referred to the disposal of cases under Section 24(1) of the Act involving the question of splitting up of speculation loss from other business loss, a reference in regard to the correct interpretation of which was pending before a High Court. The Committee requested the Board to consider the difficulties explained above and issue necessary instructions requiring the Department to adopt a reasonable and consistent attitude in the matter of disposal of appeals before appellate assistant commissioners.

### Payment of Taxes on Disputed Amounts

The Committee in a communication dated 29th November addressed to the Central Board of Revenue referred to the assurances that in regard to payment of taxes on disputed amounts, every case would be examined on its own merits and in extremely hard cases payment of tax on disputed amount would be deferred till disposal of the final appeal or reference. The Committee pointed out that even so, cases had been brought to their notice in which orders for keeping in abeyance payment of taxes on disputed amounts till the disposal of the reference before the High Court were being amended and the parties called upon to make payment of the full amount of the tax notwithstanding the pendency of the reference for disposal before the High Court. The Committee pointed out that such an action was not justified and stressed that once an order had been made for keeping in abeyance payment of taxes pending disposal of an appeal or reference before a particular forum the same should not be disturbed until such time as the appeal or the reference was disposed of. The Committee, therefore, requested the Central Board of Revenue to issue suitable instructions in this regard so that, except under extraordinary circumstances, orders for keeping in abeyance payment of taxes on disputed amounts until the disposal of reference or appeal would not be altered or modified.

### Levy of Additional Super-tax on Bonus Shares and Super-tax Dividends—Difficulties arising out of

The Committee in a communication dated 19th March 1957, addressed to the Government of India, referred to the proposals contained in the Finance Bill, 1956, and recalled the observations thereon to the effect that they would result in reducing the quantum of savings for fresh investments and had suggested Government to give facilities for the private enterprise to increase corporate and personal savings and also give such direct assistance in the form of special concessions in cases where profits were ploughed back in investment for expansion of the existing and the growth of new industries. In this connection, they particularly made a reference to the

delay experienced by companies in getting applications for issue of bonus shares sanctioned even when the applications fully complied with the various regulations framed for the purpose. The Committee suggested that for the purpose of restoring confidence in the investment market it was necessary that disposal of applications for bonus shares issue should be as expeditious as possible. Regarding the levy of additional super-tax at a graded rate on dividends declared by companies above 6% of the paid-up capital, the Committee observed that the impost calculated on the paid-up capital alone without taking into consideration the reserves was unscientific in principle and unfair to those companies which had built up their reserves. They, therefore, reiterated their suggestion that tax on dividends should be based on paid-up capital including reserves instead of on paid-up capital alone.

#### Income-tax on Amounts received by Employees by way of Gratuity

Under Section 7 of the Indian Income-tax Act, amounts received by employees under the Scheme of Gratuity framed by their employers were liable to income-tax in their case under the head 'salaries'. In bringing these payments to tax in the year when the employee leaves the service of the employer, they are added on to the income of the employee in that year, so that the amounts by way of gratuity become liable to tax at a high rate and in some cases, a major portion of this amount is consumed by way of taxes, thus defeating the object of payment of gratuity.

The Committee in a communication dated 13th April addressed to the Central Board of Revenue, therefore, suggested that a Scheme should be evolved by which the amount of gratuity was not whittled down and at least a major portion of it accrued to the employee. For this purpose, the Committee suggested that the amount of gratuity received by an employee should be spread over at least for a period of 3 years, commencing from the year subsequent to the year of leaving the service of the employer. Alternatively, the payment received under the Scheme of Gratuity should be considered as income accruing to the employee in the year

subsequent to the year of his leaving the service and assessed to tax as income of that year.

The Central Board of Revenue in their reply dated 29th April pointed out that Section 60(2) of the Income-tax Act provided for the grant of relief by the Central Government in cases where an employee was taxed by reason of the receipt of a gratuity at a rate higher than that at which he would, otherwise, have been taxed. This relief would be given if the employee applied for it from the Income-tax Officer. In their view, no further relief in the matter was called for.

### Indian Income-tax Act—Section 10(2)(vi)— Allowance of Initial Depreciation

Section 10(2)(vi) of the Indian Income-tax Act provides *inter alia* for an initial depreciation allowance in addition to the usual depreciation allowance in respect of buildings newly erected or machinery or plant newly installed after 31st March 1945. On a strictly legal interpretation of the provision, it had been held that an assessee would be entitled to claim this initial depreciation on a building newly erected by him or machinery or plant installed by him after the relevant date only if the building or the plant and machinery was used for purposes of the business in the accounting year. In a particular case, the Bombay High Court held that in order to enable an assessee to claim the initial depreciation three conditions had to be satisfied, viz. (1) a business must be carried on by the assessee, (2) for the purpose of the business the building must be erected in the year of account, and (3) the building must be used for purposes of the business. The High Court, however, was conscious of and gave expression to the anomaly and inconvenience which was likely to be caused to an assessee by putting such an interpretation upon Section 10(2)(vi).

The Committee in their letter dated the 28th March 1957 addressed to the Central Board of Revenue pointed out that the object in allowing initial depreciation was to give an impetus to businessmen and industrialists to start new factories and to instal new machinery, and it was but proper that initial depreciation should be granted in cases where the build-

ing was erected or the plant and machinery installed in the year of account even though they might not have been used for the business of the assessee in that year.

The Committee urged the Central Board to issue executive instructions for giving initial depreciation to such cases, the facts of which were similar to the one considered by the High Court of Bombay, and, if necessary, to take such steps as might be required for amending the law for giving effect to the opinion of the High Court. The Central Board of Revenue in their reply dated 9th April informed the Committee that instructions had already been issued in June 1956, to all Income-tax Officers to allow initial depreciation in the first year of use of the newly erected machinery or newly erected building.

### Indian Income-tax Act—Section 16(2)— Grossing up of Dividends

Prior to the amendment of the proviso to sub-section (2) of Section 16 of the Indian Income-tax Act by the Finance Act, 1956, dividends declared by a company from the profits of previous years, which had already been subject to tax, were not grossed up on the plea that the company was not liable to income-tax on these amounts in the relevant assessment year. Though assessees in respect of whose assessments substantial amounts were involved and who were in a position to obtain necessary advice and test the decisions of the Income-tax Officers in appeal, filed appeals before the Appellate Assistant Commissioner, many poor assessees who did not have the benefit of such advice did not file appeals. As the decisions taken by the Income-tax Officers did not appear to be proper and arose out of a misconstruction of the relevant provision, representations were made to Government for a clear clarification of the implications of the relevant provision and this was done by re-casting the proviso under the Finance Act of 1956 and giving the necessary relief in respect of grossing up. However, those assessees who did not file appeals against the orders of the Income-tax Officers as well as those whose appeals were dismissed by the Appellate Assistant Commissioners but could not proceed further before the Tribunal or before the Commissioner of Income-tax were not

in a position to avail of the benefits arising from the clarificatory amendment made in 1956. While assessees who made refund applications after the amendment got the benefit of grossing up, those who had already submitted applications before the said amendment were deprived of the relief.

The Committee in their letter dated the 28th March addressed to the Central Board of Revenue, expressed that the discriminatory treatment was not justifiable and required to be set right. They, therefore, suggested that necessary departmental instructions on the following lines be issued in order to remedy the hardship and injustice caused to those assessees who had been deprived of the benefit of the relevant provision of the amended proviso for no fault of theirs:

- (1) By rectifying under Section 35 of the Act those assessments where dividends paid from past profits had not been grossed up;
- (2) By granting relief under Section 48 of the Act by requiring the assessees to submit fresh refund applications.

The Central Board of Revenue in their reply dated 16th April informed the Committee that they were unable to accept the suggestion.

#### **Indian Income-tax Act—Section 10(2)(vi)—Depreciation Allowance in respect of Sewing and Knitting Machines used in the manufacture of Ready-made Garments**

According to Rule 8 of the Indian Income-tax Rules, 1922, sewing and knitting machines employed in the manufacture of hosiery and woollen goods are entitled to depreciation allowance of 15%. As there is no specific mention regarding the rate of depreciation allowance on sewing machines employed in the manufacture of ready-made garments, depreciation is being allowed on such machines only at the rate of 7%, being the rate applicable under the general item "machinery and plant". The Committee in a communication dated 1st November addressed to the Central Board of Revenue pointed out that since sewing machines employed in the manufacture of ready-made garments were subject to the same wear and tear as those employed in the

manufacture of hosiery and woollen goods, it was reasonable to suggest that sewing machines employed in the manufacture of ready-made garments should also be subject to the same rate of depreciation allowance, viz. 15%. Such a rate of depreciation would also be fair having regard to the normal life of the sewing machines. The Committee, therefore, requested the Central Board of Revenue to give consideration to this suggestion and to bring about suitable modification in the relevant rules.

**Indian Income-tax Act, 1922—Section 9—Computation of Income from House Property—Allowance in respect of Municipal Taxes, etc.**

The Committee in a communication dated 15th October addressed to the Central Board of Revenue again invited Government's attention to the inequity of imposing on property-owners obligation to pay income-tax on amounts represented by payments made in regard to taxes levied by local authorities. The relief however was not forthcoming and, it was pointed out, as a result of the amendment made by the Indian Income-tax (Amendment) Act, 1950, only one-half of the total amount of taxes levied by any local authority in respect of the property were allowed in computing the income from property. Taxes levied by a local authority included a tax or rate for water supplies by it as well as conservancy tax. All these taxes, together with the general tax, were considered for the purpose of the Explanation to sub-section (2) of Section 9 of the Indian Income-tax Act as taxes in respect of property and only 50% of the amounts so paid were allowed in computing the income from property. In this connection, the Committee referred to a decision of the Bombay High Court wherein it was held that the conservancy tax and the water rate were not taxes in respect of property and the assessee was therefore entitled to the deduction of the whole of the conservancy and water taxes from his gross receipts from property. In view of the above decision they urged that assessees who had been assessed on the income from property based on wrong interpretation of the relevant provision of the Act should be given the necessary relief. For this purpose the Committee suggested that in respect of assessments completed within the last one year the Commis-

sioners of Income-tax should be instructed to give automatic allowance of the full amounts paid by way of water tax or conservancy tax. The Committee further suggested that even in respect of assessments relating to assessment years 1951-52 onwards relief of the kind should be given.

### **Meeting with Shri M. K. Venkatachalam, Deputy Secretary, Ministry of Finance, Government of India**

The Committee and the Internal Trade Sub-Committee of the Chamber met Shri M. K. Venkatachalam, Deputy Secretary, Ministry of Finance, Government of India, on Friday, the 27th September 1957 at 4.00 p.m. at the Chamber's Office and discussed with him matters connected with Central Sales Tax. Shri R. C. Joshi, Joint Secretary to the Government of Bombay, Finance Department, Shri P. N. Damry, Collector of Sales Tax, Bombay State, and Shri S. K. Gangopadhyay, Dy. Secretary, Finance Department, were also present. Representatives of the various Trade Associations affiliated to the Chamber as also of other important Chambers of Commerce and commercial organizations in the State of Bombay were invited to the meeting. The following is the summary of the discussion on the points raised at the meeting.

(1) **Inter-State Sales Tax on goods meant for export:** The Committee suggested that suitable provision be made in the Central Sales Tax Act for grant of rebate of inter-State sales tax paid on goods imported from one State into another for the purpose of export. Shri Venkatachalam observed that Government themselves were aware of the need to give relief to the export trade in regard to the inter-State sales tax levied on goods imported from one State into another for the purpose of export. There were, however, difficulties in evolving a suitable administrative provision for the same. Government would welcome suggestions from the trade regarding a suitable working formula.

(2) **Applicability of the Central Sales Tax on sales of goods made in the course of inter-State trade to dealers in the State of Jammu and Kashmir:** The Committee referred to the Circular issued by the Sales Tax Department of the

Government of Bombay stating that a dealer from the State of Bombay selling and despatching goods to a dealer in Jammu and Kashmir had to pay Central sales tax collected in a manner prescribed in Section 8(2) of the Central Sales Tax Act, i.e. at the rates chargeable on intra-State sales under the Bombay Sales Tax Act, and sought the confirmation of the Central Government on this interpretation, in view of a different view that was taken in certain quarters, according to which sales made by the dealers in any State in the Indian Union to the dealers in Jammu and Kashmir State were not subject to Central sales tax. Shri Venkatachalam in the course of his reply to this point, confirmed the above interpretation of the Bombay Sales Tax Department, which, he said, was in conformity with the interpretation of the Central Government in the matter.

(3) **Goods required for use in the manufacture of other goods for sale:** The Committee suggested that all goods which were required for the manufacture of finished products should, as a matter of course, be allowed the benefit of the preferential rate of 1% for inter-State sales tax. They further suggested that there should be uniformity in the policies followed by the Sales Tax Authorities in the different States in this regard. Shri Venkatachalam said that the question had already been engaging the attention of the Central Government. Government were considering drawing up, in consultation with the various States, separate lists enumerating the items that were required for the purpose of manufacture by certain industries of an all-India importance such as textiles, sugar, jute, heavy chemicals, etc., and which could be purchased at the preferential rate of 1%, in accordance with the provisions of the Central Sales Tax Act by those who were engaged in these industries. Government would welcome suggestions from the trade in regard to the drawing up of these lists. As for the industries having local importance, the matter would be left to the State Governments concerned.

(4) **Levy of sales tax on inter-State sales to manufacturers and processors:** The Committee referred to the fact that 'declared goods', when sold by a dealer in one State to the manufacturers in another State, were subject to Central sales

tax not at the preferential rate of 1% but at the rate obtaining in the exporting State under its own Sales tax law. It was pointed out that the rate of tax leviable in this way on 'declared goods' might amount upto 2% and this would increase the cost of production of the finished product. Shri Venkatachalam said that the levy of the Central sales tax on sales of declared goods to manufacturers in another State at the above rate was provided for in the Act intentionally so as to keep the incidence of the tax on the goods coming from other States and that on the goods of the local origin on an even basis.

(5) **Goods sold in the course of inter-State trade by transfer of documents of title to the goods, such transfer taking place in the State of the purchasing dealer:** When goods were despatched by a dealer in one State to a dealer in another State and delivery of the same given to the buyer by endorsing documents of title to the goods such as R/R in the buyer's State, the question arose as to which was the appropriate State entitled to levy inter-State sales tax. The Committee sought clarification on this point and opined that the exporting State should be entitled to levy inter-State sales tax on such transactions, as otherwise, if the importing State were to levy tax on such transactions, it would mean reverting to the earlier situation, whereunder, the dealers of one State were administratively impinged upon by the Governments of other States. Shri Venkatachalam said that Government fully saw the force underlying the suggestion and added that the same would be carefully examined.

(6) **Goods returned—Refund of Tax:** The Committee suggested that a provision be made in the Central Sales Tax Act for refund of the amount of tax paid on goods which were subsequently returned in a specified period. Shri Venkatachalam said that provision would be made in the rules for grant of refund of the Central sales tax paid on goods which were returned by the buyer to the selling dealer within a period of 3 months from the date of delivery.

(7) **Provision for Revised Returns:** The Committee suggested that a provision should be made under the Central Sales Tax Act permitting submission of revised returns by

the dealers. Shri Venkatachalam said that instructions were being issued to the Sales Tax Departments of the various States to permit dealers to submit revised returns within a specified period.

(8) Levy of tax under Section 8(2) on sales by manufacturers and importers in Bombay State and those by other dealers in the State: The Committee drew attention to the anomaly of the difference in the amount of Central sales tax payable by manufacturers or importers in the Bombay State on their sales to unregistered dealers or consumers in other States and that payable by other dealers in the State buying goods from the manufacturers or importers under Certificates in Forms 'J' and 'K' under the Bombay Act on similar transactions. Shri Venkatachalam said it was a matter with which the State Government was concerned.

(9) Sale by transfer of documents: The Committee had referred to normal methods of business in certain trades, whereunder sales were effected by transfer of documents more than once before the delivery of the goods was taken by the ultimate buyer and stated that the levy of tax on every such sale added to the cost structure of the article. It was, therefore, suggested that with a view to preserving the normal methods of business prevalent in some of the trades and with a view to reducing the incidence of Central sales tax on inter-State sales, the provisions of Section 3 of the Central Sales Tax Act should be modified so as to ensure that inter-State transactions would be subject to inter-State sales tax only at the point at which there was a sale by a dealer in one State to a dealer in another State. Shri Venkatachalam said that the suggestion would be examined.

(10) Declaration in Form 'C'—Responsibility for: The Committee pointed out that it was not proper to fasten the responsibility in regard to declarations in Form 'C' on the selling dealers as was being done by the Sales Tax Department of the Bombay State. It was suggested that the selling dealer should be absolved from any responsibility regarding declarations furnished to him by the purchasing dealer in another State. Shri Venkatachalam said that the responsibility regarding declarations in Form 'C' was

primarily that of the selling dealer. He appreciated the point which was made out by the Committee and said that with a view to mitigating the difficulties of the selling dealers, Government were considering measures such as publication of the lists of the registered dealers, etc. They would also consider the question of putting some responsibility on the purchasing dealers themselves.

(11) **Form "A"** prescribed under the Central Sales Tax (Registration & Turnover) Rules: Referring to Form "A" prescribed under the Central Sales Tax (Registration & Turnover) Rules, the Committee suggested its revision with a view to its simplification and deletion therefrom all the items which were not relevant. Shri Venkatachalam assured that the suggestion would be carefully examined.

(12) **Form "C":** Although Section 8(3) provided for purchase of containers or other materials used for the packing of goods by manufacturers and processors at the preferential rate of 1%, Form "C" did not contain a column under which the manufacturers or processors could make a declaration in the Form to that effect. The Committee, therefore, urged addition of such a column in Form "C" with a view to bringing it in conformity with the provisions of the Act. Shri Venkatachalam assured that the Form would be suitably modified.

(13) **Deduction of the amount of sales tax from the gross turnover for the purpose of arriving at the taxable turnover:** The Committee suggested a suitable provision under the Central Sales Tax Act for deduction of the amount of sales tax from the gross turnover for arriving at the taxable turnover. Shri Venkatachalam said that suitable provision would be made in the Rules.

(14) **Form IIIB (Form of Return) prescribed under the Central Sales Tax (Bombay) Rules—Signed Copy of the Sales Register prescribed under the Rules to be enclosed with the Form of Return:** The Committee pointed out that submission of a signed copy of the Sales Register with the return involved avoidable clerical work and suggested that the requirement should be done away with as the register itself could be checked and examined at the time of assessment.

An assurance was given that the department would be prepared to accept copies of the invoices in lieu of the copies of the sales register and that a Circular would be issued to this effect.

### Scheme for Amalgamation of the Sales Tax with Central Excise

The Committee in a telegram dated 6th December, addressed to the Government of India, referred to the fact that in response to demand from trade a proposal for abolition of sales tax and amalgamation of the same with the Central Excise on mill-made cloth, sugar and tobacco was under active consideration. It was reported that there was a general agreement on the scheme at the Conference of the State Finance Ministers and that a Bill incorporating the scheme would be introduced in the Parliament shortly. The Committee pointed out that the absence of any authoritative announcement in this regard was creating a feeling of suspense in trade circles. They, therefore, requested Government to expedite steps to enact necessary legislation to give effect to the scheme for abolition of sales tax and amalgamation of same with Central Excise. This has now been done by the Central and State Governments by passing special legislation for the purpose.

### Scheme of Abolition of Sales Tax and Amalgamation of the same with the Central Excise Duty—Inclusion of Artificial Silk or Rayon Fabrics therein

The Committee in a communication dated the 13th December addressed to the Government of India referred to the proposal for abolition of sales tax and amalgamation of the same with the Central Excise Duty on certain specified articles, viz. mill-made cloth, sugar and tobacco and urged that artificial silk or rayon fabrics should also be included in the proposed scheme. The Committee in this connection referred to the fact that the Rayon industry was composed of very small units and they were finding it very difficult to conform to the procedural formalities prescribed in connection with the sales tax laws. The Committee therefore requested Government that in view of the hardship and in-

convenience that was being experienced by the Rayon industry and trade, rayon fabrics should be included in the scope of the proposed scheme of abolition of sales tax.

### **Operation of Central Sales Tax Act in respect of Sales to Dealers in some of the centrally administered areas**

In a letter dated the 5th August addressed to the Ministry of Finance, the Committee pointed out that, since in some of the centrally administered States like Tripura, Manipur, Andaman and Nicobar Islands, no sales tax law obtained, there was no authority with whom dealers in these States could get themselves registered under the Central Sales Tax Act, 1956. In the absence of such registration, goods sold to the said dealers by dealers in other States would be subjected to inter-State sales tax under the Act at rates leviable on the sales taking place inside the supplying States: such a position would result in discrimination against dealers in the said centrally administered areas, who would have to pay tax under the Central Sales Tax Act at rates prevailing in the selling States and not at 1% in terms of Sec. 8(1) of the Act due to no fault of theirs, as also cause discrimination among dealers of different selling States in view of the disparity of the rates of tax.

The Committee, therefore, suggested that, in order to remove the above anomaly, suitable arrangements should be made for registration of dealers in the centrally administered areas under the Central Sales Tax Act. Government in their reply dated 24th August gave details of the authorities authorized as registered authorities under Section 77(1) of the Central Sales Tax Act, 1956, in the various Union territories.

### **Central Sales Tax Act, 1956—Goods sold to Manufacturers, Processors and Contractors in the course of inter-State Trade**

It was pointed out to the Committee that till lately the Sales Tax authorities in Bombay State were allowing only those items which went directly in the manufactured products as raw materials or component parts, for being purchased by the manufacturers, processors, etc. at the preferential rate of 1 per cent provided for in Sec. 8(1) of the Central Sales Tax Act,

1956. As against this, the Sales Tax Authorities of some of the other States were allowing all the items even including those which were not allowed by the Bombay authorities. Subsequently, however, the Collector of Sales Tax, Bombay State, had issued a circular stating that raw materials, processing materials, machinery, its spare parts, plant, tools, equipment, fuel and lubricants would be allowed to be purchased by manufacturers, etc. at the preferential rate of sales tax. In their communication dated the 8th October 1957 addressed to the Secretary to the Government of India in the Ministry of Finance, the Committee stated that, while this circular represented a great improvement over the position previously obtaining, they were of the opinion that all materials and goods required by manufacturers and processors for manufacturing or processing goods should be allowed to be purchased at the preferential rate of 1% on a uniform basis in all the States and no discretion should be left to the Sales Tax Officers in the matter.

Government in their reply dated 15th October informed the Committee that they had already issued general directions to State Governments regarding the type of goods which might be considered to be required for use in the manufacture of goods under Section 8(3)(b) of the Act and which might be granted the benefit of the concessional levy under Section 8(1) thereof. It was added that Government proposed to draw up a standard list of items required for use in the manufacture of goods by major industries in the States all over India. Since however the administration of the Act had been delegated to State authorities, those authorities would have to exercise some discretion in the matter of granting the benefit of a concessional levy to particular goods which were considered to be required for use in the manufacture of goods till a uniform practice was adopted in all the States.

### **Central Sales Tax Act, 1956—Declarations in Form “C”— Responsibility regarding**

Under the provisions of the Central Sales Tax Act, 1956, when goods are sold by a dealer under the Act in the course of inter-State trade to another dealer registered under the Act, the former has to obtain a declaration in Form “C” in

order to get the benefit of the preferential rate of 1% on such sales. It was represented to the Committee that the Sales Tax authorities in Bombay held the view that the selling dealer would be responsible for the declarations in Form "C". In a letter dated 8th October 1957, addressed to the Government of India in the Ministry of Finance, the Committee observed that it was not proper to fasten the responsibility regarding declarations on the selling dealer, as it was not possible for him to verify the correctness of such declarations. The Committee further observed that if necessary the Sales Tax authorities of the State of the selling dealer might make a reference to their counterpart in the State of the buying dealer for verification of the statements in the declaration. The Committee suggested that in any case the selling dealer should be absolved from any responsibility regarding declarations furnished by the purchasing dealer in other States.

Government in their reply dated 24th October 1957 observed that the points raised by the Committee were under consideration. Government however were of the view that a certain amount of responsibility should appropriately be borne by the selling dealer himself to avoid collusion and mal-practices in diverting goods in inter-State trade or commerce through fictitious *Benami* persons. They also pointed out that the penalty provisions under Section 10 of the Act were attracted only on a purchasing dealer if he made false declarations. With a view to facilitate the selling dealers to satisfy themselves as to the genuineness of the declaration forms tendered by the purchasing dealers, it had been decided to publish a list of registered dealers in each State by the State Government. Moreover, the declaration forms were being printed in the Nasik Security Press under security printing. These steps would facilitate the selling dealer to a considerable extent in fixing the identity of a purchasing dealer and the genuineness of his registration and the declaration forms. It was added that the Act should be allowed a fair trial before further considering this aspect.

#### Sales Tax Scheme for the State of Bombay

The Committee in a communication dated 3rd June addressed to the Government of Bombay, referred to the fact

that the question of introducing a uniform piece of sales tax legislation applicable to all the areas comprising the new State of Bombay was now engaging the attention of Government and in that connection made the following suggestions. The Committee reiterated their earlier view that the tax structure and the formalities prescribed thereunder should be simple and intelligible. The experience of the working of the two-point sales tax system during the last three years had borne out the fears that the implementation of the scheme would cause serious hardship to the dealers. They, therefore, once again reiterated the need to have a simple sales tax system which would be easily intelligible even to the small trader and which would not involve any complex procedural formalities. The Committee further suggested that in order to facilitate the formulation of such a scheme, Government should consider the question of appointing an expert Committee with non-official representatives drawn from the trade and industry thereon to go into the whole matter and to make recommendations to Government regarding a suitable scheme of sales tax for the State. The Committee requested Government to give early consideration to the said suggestion. Government in their reply dated 3rd July informed the Committee that the question of appointing a committee of experts for the purpose was under consideration.

Government of Bombay have since appointed a Sales Tax Enquiry Committee. The Committee is headed by Shri Babubhai J. Patel, an ex-Minister of the State of Bombay, and consists of nine other members including Shri Gopaldas P. Kapadia, the Vice-President of the Chamber.

#### **A Bill to amend certain Laws relating to the levy of Tax on the Sale or Purchase of Goods in the State of Bombay**

The above Bill sought to amend the various Sales Tax Laws which were in operation in the different parts of the re-organised Bombay State, so as to bring them in conformity with the provisions of the Central Sales Tax Act, 1956, the object being to adjust, in terms of the decimal coinage, the rates of Tax levied under the different Sales Tax Laws in the State.

The Committee in a letter dated the 20th March addressed to the Government of Bombay in the Finance Department drew attention to the fact that, in the course of the amendments contained in the Bill, the words "seven naye paise" had been substituted for the words "twelve pies". However, in the manner prescribed in Section 41(2) of the Indian Coinage (Amendment) Act, 1955, the equivalent of twelve pies was six naye paise and not seven naye paise. The Committee requested Government to set right the discrepancy, as otherwise it would make a substantial difference in the incidence of the tax in the aggregate.

After the Bill had been passed the Committee addressed a further communication on 29th April. The Committee pointed out that when the measure was in the Bill form they were under the impression that this was through oversight as the correct conversion of 12 pies in terms of the decimal coinage came to 6 naye paise. It appeared however that the change was intentional. A detailed examination had convinced them that the adjustments of the various rates would increase the overall incidence of sales tax to an appreciable extent. The Committee expressed the view that Government should have studiously avoided adjustment of the rates of sales tax in terms of the decimal coinage in a manner which would have the effect of increasing the incidence of the tax. Government in their reply dated 15th June observed that looking to the general turnover of sales of articles covered by entries 41 to 78 of the Schedule B to the Bombay Sales Tax Act, 1953, in whose case a sales tax of 12 pies and a general sales tax of 6 pies were both leviable, the increased yield of revenue by way of sales tax at the rate of 7 naye paise in place of 12 pies in the rupee was estimated to be less than Rs. 19 lakhs while the decrease in the yield by way of general sales tax on the same items at the rate of 3 naye paise in place of 6 pies in the rupee came to Rs. 16 lakhs approximately. In so far as the items of cloth and clothing were concerned, it was estimated that there would be an actual decrease in the yield of about Rs. 5 lakhs per year in view of the adjustment of the rates of sales tax and general sales tax in terms of decimal coinage.

### **Position of Commission Agents vis-a-vis Sales Tax**

For the purposes of the Bombay Sales Tax Act, the Commission Agents holding authorisations and licences were also allowed to buy goods free of sales tax and general sales tax respectively in the same manner as any other dealer, after giving the said dealer certificates in the prescribed forms. The concession in question was withdrawn and it was stated that in the case of purchases by Commission Agents on behalf of their constituents if the effect of the transaction was that there was no re-sale by the Commission Agents to their principal of the goods purchased by them, the Commission Agents could not issue certificates in the prescribed Forms J, K, N to the vendor, since in the circumstances of the case they were not the Commission Agents' own purchases.

The withdrawal of the concession created severe difficulties and hardships for the Commission Agents and several Association Members had desired that the Committee should take up the matter with the authorities. The attention of the Government of Bombay was also drawn to the difficulties. In response to Government's invitation and at the request of the trade associations concerned, Shri G. P. Kapadia, the Vice-President, attended a meeting of the representatives of the trade associations concerned with the Finance Minister, Government of Bombay, and placed the case of Commission Agents before him. As a result of the discussion at the meeting a satisfactory solution of the problem had been found and the same was incorporated in a circular issued by the Collector of Sales Tax.

### **Sales Tax on Motor Spirit**

As published in the Report of the Chamber for the year 1956, the Committee had addressed the Government of Bombay requesting that the petrol dealers should be enabled to obtain refund to the extent of the evaporation and leakage allowances allowed to the oil companies while assessing the sales tax on their sales of petrol. Government in their reply dated the 22nd January 1957 informed the Committee

that provision already existed under the Sales Tax Rules, in terms whereof the dealers could, after fulfilling the condition laid down in the relevant rules, obtain the necessary refund.

### Bombay Sales Tax—Sales to Military Canteens

Rule 7 of the Bombay Sales Tax (Exemptions, Set-off and Composition) Rules, 1954, specifies the classes of sales on which sales tax and general sales tax are not payable under the Bombay Sales Tax Act, 1953, viz. sales to the Canteen Stores Department (India), sales to Canteen Contractors, and sales by the Canteen Stores Department (India) to certified dealers. The purpose of the Rule is to exempt from sales tax purchases made by members of the Armed Forces of India.

Representations had been received in the Chamber that there were possibilities of leakage of a portion of the goods supplied to the Canteens to the local retail markets. The Committee in their letter dated the 5th September addressed to the Government of Bombay in the Finance Department suggested that, instead of giving outright exemption on goods sold to Military Canteens for the use of the Armed Forces, such goods should be subjected to tax when they were sold to Military Canteens and provision made for subsequent grant of refund of the amount of the tax on the exact quantity that had been sold to the Armed Forces during a given period. Such a course, in their opinion, while continuing the concession of sales-tax-free supply of goods to military personnel, would act as a safeguard against any possibility of leakage of goods meant for use of the military forces to the local civilian markets, as the Military Canteens would be required periodically to account to the Sales Tax Department about the disposal of the goods sold to them for getting refund of the sales tax paid on the goods and consequently there would be greater check on supplies made to the Military Canteens. Government in their reply dated 28th October requested the Committee to send details of instances of alleged leakage in order to enable them to look into the matter.

### Sitting Arrangements and Other Facilities for Assessee in the Sales Tax Office

As published in the Report of the Chamber for the year 1956 the Committee had addressed the Collector of Sales Tax emphasizing the need for suitable and adequate sitting arrangements in the Sales Tax Office for the convenience of the assessees visiting the Sales Tax Department. The Collector of Sales Tax in his reply dated the 11th January 1957 observed that the difficulties experienced by dealers and their staff had been long appreciated and subject to the limitation of the space and general facilities, all possible measures had been taken to avoid inconveniences to the business community. In particular the sitting arrangements as also arrangements made for supply of pure drinking water were being improved.

### **III. TRADE, INDUSTRIAL AND LABOUR LEGISLATION**

#### **Formulation of Guiding Principles for determining the question of Payment of Bonus**

The Committee in a communication dated the 14th January 1957 addressed to the Government of India referred to the earlier suggestion that with the abolition of the Labour Appellate Tribunal there was need for some machinery for reviewing the decisions of the various Tribunals at least in cases where there was miscarriage of justice or where an award or decision was likely to lead to industrial unrest and interfere with the normal working of the industries concerned. The Committee pointed out that from the award of an Industrial Tribunal, after the abolition of the Labour Appellate Tribunal, it would appear that such Tribunals were taking the view that they would no longer be bound by the decisions given by the Appellate Tribunals, e.g. in a particular case the Industrial Tribunal held that the formula laid down by full bench of the Appellate Tribunal for calculating the surplus available for payment of bonus to the employees was not binding on the Tribunal. The Committee expressed the view that such deviation from maturely considered and well laid down principles was likely to lead to industrial unrest and to interfere with the normal working of the industries concerned. It would also retard the progress of building up of case law in the field of industrial legislation so necessary in an industrially expanding democracy. They therefore suggested that steps should be taken to formulate for the guidance of the industrial and other Labour Tribunals, the fundamental principles that should be conventionally followed by such Tribunals in deciding upon important issues like payment of bonus, based on the decisions given and the principles laid down by the Labour Appellate Tribunal so that uniformity in the decisions of the various Tribunals might be maintained.

#### **Interpretation of Laws by Judiciary**

The Committee in a communication dated 25th April addressed to the Government of India referred to the diffi-

culties and confusion arising out of the varying interpretations on the same or similar points of law given by different High Courts in India and stressed the need for evolving a solution for ending the difficulties and confusion inherent in the situation. They pointed out that in terms of the existing system of judiciary in the country, while the decision of the Supreme Court of India was binding on all the High Courts of the State, the decision of one High Court was not binding on the other. In order to obtain the final verdict of the Supreme Court on any legal issue, the parties affected had to pass through several stages of appeal and were in the process put to considerable expenditure. The Committee pointed out that there had lately been a spate of legislation in the industrial and commercial sphere and innumerable difficulties were being experienced arising out of the heterogenous interpretation given by the different High Courts. To remedy the situation, the Committee suggested that in addition to the powers under Article 143 of the Constitution empowering the President to consult the Supreme Court in regard to questions of law or fact which were of public importance, provision should also be made for reference to the Supreme Court of those issues concerning points of law or fact of public importance in the domain of trade, commerce and industry which might be brought to the notice of Government as requiring clarification by Chambers of Commerce or other interests concerned and such Chambers of Commerce or interests concerned should be allowed to appear before the Supreme Court and express their views on the subject.

### **Bill further to amend the Life Insurance Corporation Act, 1956**

The Bill further to amend the Life Insurance Corporation Act, 1956, introduced in the Lok Sabha sought to provide for the setting up of an Investment Board consisting of the Governor of the Reserve Bank of India as Chairman, the Chairman of the Central Board of the State Bank of India and the Chairman of the Life Insurance Corporation of India as Members, which would be entrusted with the work of investment of the funds of the Corporation. The Committee in a communication dated the 25th November addressed to

the Government of India in the Ministry of Finance conveyed their views and observations on certain provisions of the Bill.

As regards composition of the Investment Board, the Committee pointed out that, as the Investment Board would be charged with the function of investment of the funds of the Corporation amounting to crores of rupees and the policyholders whose moneys would in effect be so invested might reasonably expect to be assured that this aspect was being looked into by a body consisting of persons who had the necessary background of experience in the line, over and above representatives of official agencies and organisations, persons drawn from the sphere of commerce and industry, specialised field of investment activity such as stock exchanges as also representatives of policyholders should be included on the Board.

The Bill sought to empower Government to frame suitable Rules in regard to the manner and method in which the Board might be required to canalise investment of the funds of the Corporation. The Committee suggested that the more appropriate course in this behalf would be to provide in the Act itself a provision indicating the manner in, and the conditions under, which the Investment Board could invest the Corporation's moneys. The Committee also suggested that some overall limitation might be set as to the extent to which funds could be invested in a particular form or scrip, as such a provision might be conducive to instilling a feeling of security in the public mind emanating from the knowledge that the funds were being handled in the light of the generally accepted criteria as laid down in the statute. As against the possible argument that any such restriction would come in the way of the Board allocating their investments in the scrips of newly-established industrial units and thereby precluding the latter from getting investment support from the Corporation's funds, the Committee mentioned that the remedy for the difficulty would lie in the direction of so designing the regulations as would not hamper the discretion of the Board as regards the extent whereto funds should be invested in any particular scrip of a newly-established industrial unit.

The Bill further provided that, if the Chairman of the Board or any other member thereof was not able to attend any meetings of the Board, the Chairman or such member could depute any other person to attend the said meeting and the person so deputed would, for all purposes, of the said meeting, be deemed to be a member of the Board, and that if at any meeting the Chairman and the other members were all absent the persons deputed to attend the meeting should elect one from among themselves to preside over the said meeting. The Committee expressed that, in the larger interest of the policyholders and the investing public, it would be inadvisable to provide any provision in the Act for authorising members of the Board to depute any other person to be a member of the Board for purposes of a particular meeting, and, therefore, the provision respecting delegation of authority should be dropped.

### The Companies Act, 1956

The Government of India appointed an *ad hoc* Committee to consider amendments to the Companies Act with a view to make recommendations to overcome practical difficulties in its working and administration, removing drafting defects and obscurities and ensuring better fulfilment of the purposes underlying the Act. The Committee in a memorandum submitted on 14th June 1957 to the *ad hoc* Committee suggested amendments to and clarifications of specified Sections of the Act, which had been causing difficulties, the more important of the suggestions relating to the definition of the term 'associate' and 'relative', Section 205 regarding provision of depreciation and dividends, Section 297 dealing with the Board's sanction for certain contracts in which particular directors were interested, Section 314 providing that a director or his relatives cannot hold an office of profit in the company, except with the previous consent of the company accorded by a resolution. The Committee made detailed suggestions in respect of these and some other provisions of the Act so as to bring about suitable modification so that the provisions in question would either be simplified or clarified and that the administration of the statute could become smooth and efficient and at the same time not

discourage prospective entrepreneurs from forming new Joint Stock Companies.

Shri Naval H. Tata, President, Shri Gopaldas P. Kapadia, Vice-President, Shri Chunilal B. Mehta, Shri R. G. Saraiya and Shri C. H. Bhabha, accompanied by Shri C. L. Gheevala, Deputy Secretary, met the *ad hoc* Committee in Bombay on Thursday, the 4th July 1957. During the course of the discussion they reiterated the suggestions conveyed in the written memorandum referred to above.

The Report of the *ad hoc* Committee has been since submitted to Government, and the Committee would in due course give consideration to the same.

### Financial Year of Companies

The Government of India, in the Ministry of Finance, Department of Company Law Administration, had desired views on the proposal for a uniform financial year for all the companies. The Committee in a communication dated the 25th April observed that while the introduction of such a uniform financial year would be advantageous, certain practical difficulties would outweigh the advantages that might accrue from having a uniform financial year. In the case of companies engaged in industries which depended for their raw materials on seasonal products like sugar, oilseeds, jute, etc., the financial year was adjusted according to the season when such raw materials became available. Again for construction industries there would be more or less complete lack in activity during the monsoon month and therefore a financial year ending between March and December might not be found to be suitable for their purpose. Moreover many commercial companies followed the Samvat Year for their accounting purposes. The Committee felt that in view of the considerable number of companies operating in the country a uniform financial year would mean that the yearly auditing of their accounts should be undertaken and completed, more or less at the same time in a year and it would be difficult, if not impossible, for the auditors to cope up with the entire work emanating from all the companies at the same time of the year. The Committee, therefore, requested Government to give their earnest consideration to the above

aspects while considering the proposal for a uniform financial year for companies.

### Filing of particulars of Directors, etc. under Section 303 of the Companies Act

The Committee had addressed the Government of India pointing out the difficulties arising out of the requirement under the Companies Act of filing from time to time the returns re: changes in Directors or in any particulars contained in the Register of Directors. The Committee had suggested that in view of the obligation on a company to keep the Register of Directors, etc. open to inspection of any member of the company without charge and to any other person on payment of Re. 1 for each inspection, the requirement of filing the changes with Registrar of Companies could well be dispensed with. If it was not possible to dispense with this requirement altogether, the Committee suggested that a Register of Directors showing the company or companies in which a particular person was a Director might be kept and maintained at the office of the Registrar of Companies and directors should be required to file with the Registrar changes in any particulars pertaining to themselves, thereby doing away with the requirement of all the companies concerned filing separate returns in respect of such changes. Government in their reply dated 22nd April observed that the removal of the requirement would place the creditors and others who had dealings with a company at a disadvantage. The alternative arrangement suggested would create practical difficulties in the office of the Registrar of Companies. It was therefore not possible to modify the present requirement.

### Revised Scale of Fees payable by the Companies

The Government of India has laid down a revised scale of fees payable in respect of a company and the revised rates came into operation from 1st January 1957. This step was taken with a view to meet increased expenditure arising out of the company law administration being taking over by the Centre. Government had however given consideration to the need for keeping the fees payable by the existing companies with relatively small capital at the same old rates and had

therefore not enhanced the fees payable by a company having nominal share capital of less than Rs. 1 lakh. The Committee in a communication dated 13th April addressed to the Government of India welcomed this step but pointed out that the same had not gone far in meeting the situation in respect of the existing companies with relatively small capital. They, therefore, suggested that the concession should be available to companies having a nominal share capital of less than Rs. 5 lakhs. Government had accepted the minimum of Rs. 5 lakhs for the purpose of capital issues control. The Committee therefore requested Government to consider the suggestion for extending the concession regarding payment of fees to companies having a nominal share capital of less than Rs. 5 lakhs. Government in their reply dated 24th April regretted that it was not possible to agree to the suggestion.

### Saving Clause to Section 1 of the Negotiable Instruments Act

As published in the Report of the Chamber for the year 1956, the Law Commission had suggested that after a specified period only such instruments as conformed to the requirements of the Negotiable Instruments Act, irrespective of the language in which they were written, should get protection under the law and that the Saving Clause to Section 1 of the Negotiable Instruments Act should be deleted with effect from such date. The Committee had generally agreed with the suggestion and had suggested that for this purpose at least a period of 5 years should be provided. The matter was further discussed with the trade interests concerned and in the light of such discussions the Committee addressed a further communication to the Law Commission on 21st January 1957. In this communication, the Committee referred to the suggestion made by them in their memorandum relating to the revision of the Negotiable Instruments Act to the effect that the usages governing various kinds of Hundis should be statutorily recognised and the saving clause amended accordingly. The Committee suggested that since these usages in customs were many and different in various parts of the country it was necessary that a special Sub-Committee

should be appointed to go through the same and codify them by incorporating them in a separate Chapter on Hundis in the Negotiable Instruments Act. The Committee requested the Law Commission to make a suitable recommendation to Government on the lines of these suggestions. Till such time as codification of customs and usages governing hundis took place the Saving Clause to Section 1 of the Negotiable Instruments Act should be allowed to continue.

### Proposal to amend the Industrial Disputes Act

The Supreme Court in the case of Barsi Light Railway Co. and the Dinesh Mills Ltd. held that workmen would not be entitled to compensation on retrenchment where the retrenchment was due to a complete closure of the business or when the business was transferred from one employer to another. Government were considering necessary amendment to the Industrial Disputes Act so as to clarify the position as regards the payment of compensation to employees who were retrenched on account of the closure of establishments. Government however indicated that they would consider the views of the employers and workers on the subject before taking suitable action. The All-India Organisation of Industrial Employers had accordingly invited the views of the Chamber on the subject. The Committee in a communication dated 22nd February 1957 addressed to the All-India Organisation of Industrial Employers expressed the view that Government should not attempt to disturb the judgment of the highest judiciary of the land, but since Government had decided to amend the provisions of the Industrial Disputes Act regarding compensation for retrenchment they would like to emphasize that the provisions regarding payment of retrenchment compensation should not be made applicable to cases where the closure of business was due to reasons beyond the control of the employer. Again the Industrial Disputes Act applied to every establishment irrespective of the number of persons employed therein. The Committee felt that there was a strong case for excluding small establishments employing less than a specific number of persons, say 20, from the obligation to pay retrenchment compensation.

## Amendment to the Employees' Provident Fund Act, 1952— Proposals therefor

The Committee in a communication dated the 27th June addressed to the All-India Organisation of Industrial Employers expressed their views on some of the suggestions made by Government for this purpose.

It was proposed to amend Section 1(3), so as to clarify that once an establishment on employing 50 persons or more had come under the Act, it should continue to be so covered irrespective of the fact that its employment strength subsequently went below 50, unless the Central Government otherwise directed. The Central Government would, however, issue such direction only if the employment strength of any establishment had been below 50 for a continuous period of not less than 2 years. The Committee expressed the view that once employment strength fell below 50 and remained so for a period of 3 months, the establishment should be empowered to apply to Government for exemption and if Government felt satisfied that the reduction in strength was *bona fide* and that there was no chance of the employment being increased in the near future, directions should be issued by Government for exempting the undertaking. The period of 2 years for reconsidering the matter was too long.

We regard to the proposal for amending Section 1(3) for the purpose of clarifying as to whether casual workers employed in a factory should or should not be counted for computing the employment strength of 50 persons, the Committee felt that casual workers should not be taken into account for this purpose. They also suggested that any employer who was not personally present or actually working in the establishment should also not be reckoned, unless such employee was on the permanent roll of the factory concerned.

Regarding the proposal to amend Section 13(2) so as to empower an inspector to require an employer to be present at the establishment premises with such relevant records as might be specified when an inspection took place, the Committee suggested that sufficient notice should be given to the employer concerned as to the inspector's visit and the notice should also specifically mention the records to be kept ready

for his inspection. In respect of the proposal to amend Section 8 so as to empower Government to make an assessment, either by private inquiry or in such other manner as Government might direct, of the amount payable by establishments in circumstances when employers defaulted on submitting returns in Form 12 or to produce their records, the Committee suggested that action under the proposed provision should not be taken, unless the employer concerned had been served with a notice calling upon him to show cause as to why such an assessment should not be made and sufficient time had been allowed to him for presenting an explanation of his case in that behalf.

#### **Employees' Provident Funds Act, 1952—Increase in rate of contribution from $6\frac{1}{4}$ to $8\frac{1}{3}$ per cent**

The Committee in a communication dated the 27th June addressed to the All-India Organisation of Industrial Employers conveyed their views on the proposal to increase the rate of contribution under the Employees' Provident Funds Act from  $6\frac{1}{4}$  to  $8\frac{1}{3}$  per cent. They pointed out that the increase as proposed, particularly in the circumstances obtaining, would mean a heavy burden on industries. They further pointed out that even though the awards of the industrial tribunals had generally accepted the  $8\frac{1}{3}$  per cent of contribution, they had expressly refused to take into account the dearness allowance in calculating the total wages of an employee for the purpose of employees' provident fund contribution. In case of industrial labour, the dearness allowance was almost equal to, if not more than, the basic wages and in view of this even a small increase in the rate of provident fund contribution would inflate the wage bills of the industries to an appreciable extent. In view of this the Committee expressed themselves as being opposed to the proposal to increase the rate of provident fund contribution from  $6\frac{1}{4}$  to  $8\frac{1}{3}\%$ .

#### **Weekly Contribution by Employers and Employees under the Employees' State Insurance Act and the Scheme thereunder**

The Committee in a letter dated the 12th July addressed to the Ministry of Labour pointed out that, in view of the

provisions of Section 39(3) of the Employees' State Insurance Act, which had fixed a week as the unit for all contributions payable under the Act and the Scheme according to which stamps were to be affixed every week on the contribution cards on the basis of the daily wages of employees, considerable delay was involved in returning the contribution cards to the Regional Office in time. Many employers could not afford engaging additional staff for the purpose of making calculations and complying with the requirements. Moreover, under the existing position, an employee was obliged to make contribution for the whole week irrespective of the fact whether he earned wages for all the days in the week or not for any reasons.

The Committee, therefore, suggested that, with a view to removing the above difficulties, contributions payable under the Act might be fixed on the basis of a certain percentage of the monthly wages paid to the employees; introduction of the decimal coinage would facilitate such a procedure, and percentage might be fixed on slab rates, as at present, on the daily wages so that a person who worked for all days could contribute in respect of the days he worked and thus receive a higher percentage of cash benefit. Government in their reply dated 26th July informed the Committee that the suggestion would be considered at the time of the next amendment of the Employees' State Insurance Act, 1948.

### The Employees' State Insurance Act, 1948—Section 66

Section 66 of the Employees' State Insurance Act provides that where an employment injury is sustained by an insured person as an employee under the Act by reason of the negligence of the employer to observe any of the safety rules laid down under any law applicable to a factory, the employer, notwithstanding the fact that he had paid the weekly contributions due under the Act, would be required to re-imburse the Corporation to the extent of the actuarial present value of the periodical payments which the Corporation was liable to make under the Act. The Committee in a communication dated 30th December addressed to the Government of India in this connection pointed out that after the enactment of the

*Employees' State Insurance Act, the practice of obtaining protection against possible claims resulting from accidents caused to workers in the course of their employment by taking out necessary insurance policies had been discontinued. Since the employers were required to make their contributions under the Employees' State Insurance Act, it was only fair that the Corporation should take care of all risks and injuries to workmen irrespective of whether such injuries resulted due to non-compliance of the various protective legislations in the same way as the Insurance Companies accepted risks. Since, however, in such cases, the employers were being held liable, the Committee suggested that Section 66 of the Employees' State Insurance Act should be repealed.*

### Bank Strike in Calcutta

The Committee in a telegram dated the 21st September addressed to the Labour Minister, Government of India, invited his urgent attention to the situation created by the strike of Bank employees in Calcutta. They pointed out that, apart from the strike being unauthorised, repercussions of the development were likely to be far-reaching. Dis-organisation of normal business activities in Calcutta inevitably affected other centres. Moreover, there were indications that the strike in Banks might spread in other places also. They therefore suggested that Government should take urgent and effective action in the matter.

### Welfare Officers (Recruitment and Conditions of Service) Rules, 1952

The proposed Rule 7A to the Welfare Officers (Recruitment and Conditions of Service) Rules, 1952, a draft Notification concerning which was published in the Bombay Government Gazette, Part IVA, dated 9th May 1957, sought to restrict the duties that could be assigned to a Welfare Officer by the occupier of a factory, by empowering the Chief Inspector of Factories to pass an order that 'such an Officer shall not be required or permitted to do any such work which, in his opinion, is inconsistent with or detrimental to the performance of his duties prescribed by Rule 7 of the Rules'.

*The Committee in their letter dated the 14th August addressed to the Government of Bombay, Labour and Social Welfare Department, pointed out that the proposal was liable to cause conflict and create misunderstanding between the Management and the Inspectorate of Factories. As the Welfare Officer was appointed and paid for by the Management, it was but proper that he should be, if not in full, at least to a certain extent, under the control of the Management, and it would conduce neither to the interests of the establishment nor the workers that the service conditions of such Officers should be completely governed and regulated by an outside agency like the State and that the Management should have no hand or concern in the same. It was also a moot point whether the Chief Inspector of Factories would be qualified enough to decide as to whether a particular type of work allotted to the Welfare Officer by the Management in an undertaking was inconsistent with or detrimental to the performance of his duties prescribed by Rule 7 of the Rules. The Committee expressed the view that the Management would be the better party to decide this issue. Further, since the institution of Welfare Officers had been in existence only for a short period of 3 years in India, it was extremely doubtful if any special circumstances had arisen to warrant incorporation of a drastic Rule. In view of the above arguments, the Committee requested Government to drop the proposal to add Rule 7A to the Rules.*

## IV. GENERAL TRADE AND INDUSTRY

### Meetings with Shri S. N. Bilgrami, Chief Controller of Imports & Exports

*Meeting on 5th February 1957:*

The Committee and the Import-Export Sub-Committee met Shri S. N. Bilgrami, Chief Controller of Imports & Exports, on Tuesday, the 5th February 1957, at the Office of the Chamber and discussed with him matters connected with the import and export trade controls. Among the points which were particularly stressed were the restrictive character of the import policy for the period necessitated by the foreign exchange position of the country, grant of actual users' licences, licensing policy and procedure in regard to the import of capital goods, extension of the validity of the import licences consequent upon the blockade of the Suez Canal and the delay entailed in the arrival of the goods from abroad, permitting increase in the value of import licences to the extent of the increase in insurance and freight rates caused by the diversion of the ships round the Cape of Good Hope, difficulties arising out of the system of the first come first served basis for grant of export licences in respect of certain items, etc.

Shri Bilgrami in the course of his reply pointed out that the acute shortage of the foreign exchange resources of the country was responsible for the rigidity of the Import Policy. With regard to the grant of Actual Users' Licences, he explained that, although the policy did not contain the usual provision for grant of Actual Users' Licences in respect of non-listed items, the scheduled industries which hitherto got licences through the Development Wing would continue to get such licences. Expressing Government's anxiety to help indigenous manufacturers as much as possible, he said that he would be prepared to make necessary adjustments within the existing framework of the policy, for the purpose. He would consider, for instance, the feasibility of allowing the use of a part of the licence issued for a particular item for importation of another allied item not covered by the licence, if it was of a developmental character, i.e. required for use in

essential manufacture and if the holder of the licence agreed to a voluntary corresponding cut in the face value of the licence for importation of the item for which the licence was originally issued. In this connection, he also said that he would consider the question of giving permission on merits in exceptional cases to utilise a part of the import licences for machinery and plants for importation of spare parts, if the licences did not cover such parts. With regard to the suggestion made for extension of the validity of licences on account of the blockade of the Suez Canal and the consequent diversion of ships round the Cape, he said that due to the serious nature of the foreign exchange position, Government were unable to agree to the suggestion, or to allow increase in c.i.f. values of licences caused by increases in insurance and freight charges. In the case of very essential machinery, however, if there was an increase in the c.i.f. price due to increase in freight and insurance charges resulting from diversion of vessels round the longer route, he would consider allowing such increase in c.i.f. price on merits.

*Meeting on 5th July 1957:*

The Committee and the Import-Export Sub-Committee met Shri S. N. Bilgrami, Chief Controller of Imports and Exports, on Friday, the 5th July 1957. Shri Naval H. Tata, the President, stated in the course of his preliminary observations, that while in the context of the acute foreign exchange problem confronting the country, the trade had expected a more rigid Import Policy, the actual policy announced for the period July-September 1957 was much more rigorous than anticipated. All the same the trade had reconciled itself to the policy in national interest.

Referring to certain specific features of the import policy, Shri Tata, while welcoming the principle underlying the conversion of unutilised licences into more essential items, pointed out that in the absence of definite information as to what would be considered as more essential items the scheme would give rise to practical difficulties in actual implementation. He, therefore, suggested that a clarificatory statement indicating in broad outlines as to what would be considered as more

essential items for the purpose of conversion should be issued as early as possible.

With regard to the basic period fixed for the purpose of establishment of quotas in respect of the expired OGLs Shri Tata suggested that the basic period should be extended to cover the year 1956-57 so as to enable those who entered the import trade in the items concerned during the year to get the benefit of quota licences.

While appreciating the readiness of Government to help the Indian industries by granting them licences to import their essential requirements Shri Tata drew attention to the delay caused in the grant of essentiality certificates by the offices of Director of Industries, and stressed the need to expedite the issue of essentiality certificates.

Shri Bilgrami, in the course of his reply, observed that the new import policy was aimed at serving the best interests of the country. While Government were trying to get loans and financial help from some of the foreign countries to tide over the difficulty created by the shortage of foreign exchange, they were determined to solve the problem by relying on their own efforts. This explained the drastic character of the revised import policy. Referring to the point raised by Shri Tata regarding conversion of licences, Shri Bilgrami admitted the difficulties that would be caused in the absence of definite information about the items which would be deemed more essential and said that Government were drawing up four lists of such items on priority basis and that Government expected to publish such lists in about a week's time. Consideration of applications for conversion would, however, not be held up till the publication of the lists, as the Port authorities would entertain applications for conversion with immediate effect on the basis of general instructions received from the Headquarters. Shri Bilgrami said that Government would welcome suggestions from the trade in the framing of lists of essential items. He further stated that Actual Users' licences would not be convertible. Similarly, licences would not be converted to items which were banned.

In regard to the suggestion for extension of basic period for establishment of quotas in respect of items which were

under OGL, the Chief Controller of Imports stated that the practical difficulty in accepting this suggestion was the paucity of statistical data with regard to imports of OGL items during the year 1956-57. Nevertheless, Government would consider the question of extension of the basic period to cover the year 1956-57 when the requisite data were available.

### Export Promotion

In a memorandum submitted to the Export Promotion Committee, the Committee referred to the increasing requirements of the foreign exchange resources for the purpose of importing machinery and capital goods and other essential raw materials for the various developmental projects under the Five-Year Plan. They observed that while it would be necessary for us to avail ourselves of the various sources of external finance for meeting the foreign exchange requirements of the Plan, in the ultimate analysis the problem had to be solved by ourselves by relying on our own efforts, i.e. to say by a careful husbanding of the foreign exchange resources on the one hand, and by making efforts to increase them on the other. The first of these two courses implied that imports had to be maintained at the minimum level possible. There was, however, little scope for further reduction in imports, at any rate, in the immediate future, and this, therefore, underlined the need to lay stress on the second alternative course for the solution of our foreign exchange problem, viz. to augment the foreign exchange resources by stimulating exports.

The Committee stressed the need for creation of greater export-mindedness in the country. They suggested that in the context of the paramount need for expansion of markets, we should earmark a certain portion of the production of as many items as possible for export markets. Our export policy required to be re-orientated so as to make it a point to satisfy the demand of the export markets not only in respect of commodities which we could offer them conveniently but also in respect of commodities which those markets were in need of. Further the Committee observed that we must take

particular care not to lose our hold on the export markets for our traditional items of export and if the supply position of any of these items did not permit of exports in the normal quantity, efforts must be made to augment their production as early as possible.

The Committee suggested diversification of our exports both commodity-wise and country-wise. In the Committee's opinion, while cotton piecegoods, jute manufactures and tea would naturally continue to constitute the mainstay of our exports, it should be our endeavour to make the pattern and composition of our export trade varied by exploring the possibilities of exporting new products. The scope for any substantial increase in the export of our staple commodities seemed to be limited in the immediate short run and it was for this very reason that we must develop exports in new lines as a sort of second line of defence, in order to maintain our exports at a high level. It was also necessary to take steps to find new markets for our export products. In this connection, the Committee hinted at great potentialities for increasing our exports to the nearby markets, viz. Africa, South-East Asia and West Asia.

The Committee referring to fiscal incentives suggested that the question of introducing a scheme of rebate of income-tax on the lines of the suggestions of the previous Export Promotion Committees, at least on an experimental basis, with a view to finding out its potentialities as a measure of export promotion should be considered, particularly in view of the fact that, as observed by the Gorwala Committee, such a scheme, while it was not likely to cost Government much, would provide a real incentive to exports.

In the opinion of the Committee, quality and price were the twin major factors having an important bearing on the export drive. They emphasized the need for devoting greater attention to quality, for if bad quality goods were exported, it would tarnish the name of the whole country and would cause an incalculable and irretrievable harm to the efforts in the direction of export promotion. As regards the price factor, the cost of production of an article was the main determinant of the price and it would, therefore, be necessary

for the manufacturers to effect economies in their cost of production and to keep the same to the minimum level. In order to enable the industries to produce quality goods, the Committee pointed out that every facility should be given to the manufacturers to replace their old and worn-out machinery and equipment by modern and up-to-date ones.

The Committee suggested the setting up of a special organization called Export Promotion Cell with a Deputy Minister at its head in the Ministry of Commerce and Industry to prepare a comprehensive plan for Export Promotion and to be in charge of the day-to-day work in connection with Export Promotion.

Among other measures necessary to provide a strong basis for maintaining and increasing our exports, the Committee indicated the following ones :

- (1) Simplification of the procedures laid down in regard to grant of drawback of import duties on raw materials used in the manufacture of exported goods and rebate of excise duties on goods used in the manufacture of exported goods.
- (2) Reducing the cost of production of the finished goods so as to enable our products to compete successfully with the products coming from alternative sources in the export markets. This would necessitate modification, to a certain extent, of our taxation and social and labour welfare laws so as to minimise the burden of the imposts caused by them on the industries manufacturing export products.
- (3) Improvement in the machinery for collating and disseminating statistical data and other relevant information in regard to the needs and requirements of the importers in the various importing countries.
- (4) Greater stress on market surveys of the various export markets and study of consumers' preferences in the various importing countries.
- (5) Sending Trade Delegation and Missions by Export Promotion Councils in respect of commodities for which such Councils were in existence and by the

accredited trade associations in respect of others with Government support and backing.

- (6) More systematic participation in the International Fairs taking place in the various countries and display of the samples of Indian goods in the show-rooms and emporia attached to our Trade Commissioners' offices abroad.
- (7) Intensification of the propaganda and advertisement in respect of our export commodities in the various foreign markets through the media of important journals devoted to the study of trade and industry in the countries concerned and through important local newspapers, periodicals and trade journals—such propaganda and advertisement being carried on preferably on an organised basis by the Export Promotion Councils, where they were existing, and by trade associations in other cases.
- (8) Strengthening of the organisation of our Trade Commissioners and Commercial Secretaries abroad.
- (9) Extension of facilities to the merchants to open branches in foreign countries.

While commending the work done by the various Export Promotion Councils and indicating the lines on which their working could be improved the Committee suggested the setting up of special organisations on the lines of the British Export Trade Research Organisations and the Japan Export Trade Recovery Organisation for the purpose of stimulating exports in respect of items for which Export Promotion Councils were not in existence. The Memorandum also mentioned the possibilities of augmenting foreign exchange earnings through invisible items such as Banking, Insurance, Shipping and Tourist traffic. The Committee also pointed out that the entry of the State Trading Corporation in the sphere of Import & Export Trade had dampeden the initiative of the private enterprise as the traders feared that the Corporation might enter their business at any time. The Committee, therefore, suggested that an assurance from Government to the effect that the State Trading Corporation would

carry on trading operations only in respect of certain specified commodities or with only specific countries (such as countries behind the 'Iron Curtain') would go a long way in removing the feeling of uncertainty in the minds of businessmen and induce them to undertake trade promotional activities. (A copy of the memorandum dated 16th May 1957 was sent to the members of the Chamber.)

### Questionnaire issued by the Customs Reorganisation Committee

The Committee by their communication dated 23rd September submitted a detailed memorandum of their views and suggestions to the Customs Reorganisation Committee in reply to a questionnaire issued by that Committee on the subject. They particularly drew attention to the recurring complaints regarding Customs difficulties experienced by the trade and observed that these difficulties were occasioned, among other things, by some of the provisions of the Sea Customs Act and the procedural formalities thereunder, which had increased considerably over the years both in number and complexity. Some of the requirements and formalities, it was pointed out, were such that it was difficult to comply with the same in the day-to-day work connected with imports and exports. These difficulties, to some extent, were accentuated by the rigidity in administration. The Committee referred to the various Customs difficulties relating to classification and assessment of goods, delays in completion of assessment proceedings, delays in connection with the chemical and analytical tests, insistence on the part of the Customs Authorities on frequent analytical tests, sudden changes in classification of articles and consequent changes in the rates of duty leviable thereon without prior notice to the trade, lack of uniformity in the procedures adopted by the Customs Authorities at the different Ports and difficulties caused by lack of co-ordination between the Import Trade Control Authorities and the Customs Authorities. They suggested that when a change in classification was proposed to be made with regard to a particular article, the trade interests concerned should be previously consulted and the change should be announced through a Public Notice for the guidance and information of importers concerned.

sufficiently in advance, so as to allow them adequate time for making necessary adjustments. There was need for steps being taken to bring about the maximum amount of uniformity in the procedural aspects as between the Customs Authorities at the different Ports. A machinery composed of officials drawn from concerned Departments should be set up to determine classification of articles and to advise the importers concerned of the same promptly. Steps should be taken to energise the machinery in charge of the administration of the Customs law at the different Ports and for a reorientation in the outlook of the Customs personnel, which, while safeguarding Government revenue and other interests of the State, would take due note of the genuine difficulties experienced by the trade in the course of the observance of the Customs and procedural formalities. Supervisory arrangements should be instituted on the work of the staff at the lower stages as it would greatly facilitate expeditious disposal. Referring to the provisions in the Sea Customs Act regarding appeals, the Committee of the Chamber observed that the appeal provided for under the Sea Customs Act was only in the nature of a departmental review and could not claim the merit of an appeal to an independent authority. An amendment of the provisions of the Sea Customs Act should be made with a view to setting up an independent appellate authority to hear appeals over the orders passed by the Customs Officials on the lines of the Income-tax Tribunal. Such a course, it was pointed out, would not only inspire confidence in the traders but would also ensure greater care and circumspection in the administration while passing orders and taking decisions and thereby minimise the element of arbitrariness in their decision. The Committee further suggested that the Tribunal should be under the administrative control of the Law Ministry as in the case of the Income-tax Tribunal. (A copy of the memorandum was sent to the members of the Chamber.)

### **Policy governing Import of Capital Goods**

The Government of India had announced the policy and procedure which they proposed to follow in the matter of the grant of import licences for the importation of capital goods required for developmental purposes. The Committee in

their communication dated 19th March 1957 placed before Government their views and suggestions in this regard and particularly made reference to the practical difficulties that were likely to be encountered in evolving proposals or arrangements for meeting the foreign exchange requirements on the lines indicated by Government. At the outset the Committee observed that they readily recognized that the decline in the country's external reserves had necessitated concerted efforts to conserve all foreign exchange resources for purposes of an essential character, and in that view of the case greater checks on imports were inevitable. They also realised that there would be prior claim on the available resources for maintaining and sustaining the existing levels of economic activity and that import assistance for new schemes or for further development either in the public sector or the private sector would have to be treated as next in order of importance to that necessary for maintaining the requirements of existing operations and activities. They, however, felt that certain adjustments within the framework of the overall policy were necessary with a view to obviate practical difficulties. From this aspect the Committee made detailed suggestions bearing on the following points :

- (1) To the extent of the commitments already made against licences granted for capital goods, imports of plant and machinery should be allowed.
- (2) Regarding deferred payments and long-term credits from foreign suppliers Government should take up the point with authorities in some of the supplying countries with a view to evolving suitable long-term arrangements therefor.
- (3) Government should consider the feasibility of evolving in consultation with the credit institutions in the country arrangements for some form of guarantee to foreign suppliers facilitating imports of capital goods on the basis of a longer credit period.
- (4) Arrangements should be made to meet the difficulty involved in covering exchange fluctuation risks over a long period of years.

(5) In cases where the import of capital goods was necessitated for an industry wherein it could reasonably be expected that the amount of foreign exchange involved would be offset by the export of its products in the period immediately following the commencement of the manufacturing activity, such import should be permitted.

Government in their reply dated 22nd July explained the various steps that they had taken in the matter from time to time. It was explained that the import policy relating to capital goods applied only to further applications for import licences. Import licences already issued prior to the announcement of the new policy could be utilised in accordance with the terms of those licences. With regard to projects on which substantial amounts of equipments had already been secured, necessary provision was made as notified in the Public Notice No. 43-ITC(PN)/57 dated 29th June 1957. Government had also under consideration the question of guarantee for deferred payment arrangements.

### Manufacture of Coffee Powder

The Plantation Enquiry Commission in one of their recommendations had suggested that "Coffee Board should start a separate organization for manufacturing Coffee Powder". This report had given rise to a feeling of anxiety and suspense in the minds of the manufacturers of Coffee Powder in the country. The Committee in a communication dated 27th December 1956, addressed to the Government of India, referred to above and stressed that Government should not take action which would have the effect of displacing the private agencies which were traditionally carrying on a particular trade, business or industry for years past. The Committee pointed out that the legitimate function of the Coffee Board was to devise ways and means for the expansion of the production of Coffee, to undertake research for the purpose, to popularise the consumption of the commodity and to take suitable measures for increased sale of the product. Manufacture of coffee powder and consequent entry into trading activity was not the normal or even incidental function of the

Board. The Committee, therefore, suggested that while the overall regulation, control and supervision over the production carried on by the private agencies might be deemed appropriate, there was no justification for the Coffee Board to undertake the manufacture of Coffee Powder.

Two of the other recommendations of the Enquiry Commission were : (1) the coffee powder manufactured by the Coffee Board should be subsidised from the surplus realised by the Board from export auction sales, after paying to the Pool, the prevailing internal auction price and from the surplus due to gain in weight of coffee beans, and (2) all triage and bits, which were hitherto auctioned, should primarily be reserved for making coffee powder by the Board and that after meeting this demand, if there was a surplus left, then only it should be auctioned to the trade.

The Committee in a further communication dated the 27th March addressed to the Government of India pointed out that the cumulative effect of the three recommendations of the Enquiry Commission would be that the coffee powder industry in the country would be placed in a position of serious disadvantage *vis-a-vis* the Coffee Board, when the Board undertook manufacture of coffee powder and would ultimately lead to the elimination of various private agencies which were engaged in the industry for a number of years. They expressed the view that it was not necessary for the Board to start manufacture of coffee powder for the realisation of the objective, which was capable of realisation adequately through the private agencies engaged in the line. The industry was itself anxious to see that the price charged to the consumer was as low as possible, as it would help to broaden the domestic demand for its production, and it should be given the requisite facilities for the purpose. The main question for the industry was of procurement of coffee at reasonable price. Coffee was subject to centralised marketing through a Statutory Board whose policy was to secure the highest price to the producer. If the policy adopted by the Board for the auction of coffee for domestic consumption was modified on the lines suggested by one Shri K. B. Mackenzie, a planter of considerable experience while tendering evidence

before the Plantation Enquiry Commission, it would be possible to reduce the price charged to the consumer. The Committee requested Government to bear the foregoing aspects in mind while considering the recommendations of the Enquiry Commission and taking action thereon.

### Import Duty on Machinery and Equipment

By a series of Notifications issued by the Ministry of Finance (Department of Revenue) upto and including the one No. 119-Customs dated 1st December 1956, Government had been reducing the standard rate of duty of  $10\frac{1}{2}\%$  to a concessional rate of  $5\frac{1}{4}\%$  on machinery and equipment, as a measure of encouragement to Indian manufacturing industries in their programmes of expansion or replacement, renovation and rehabilitation. Thus, the bulk of machinery and equipment falling under ICT Schedule items 72 and 72(3), (17), (18), (20), (21), (24), (25) and (38) were being allowed to be imported under such a scheme. However, Notification No. SRO. 1627 (No. 97-Customs) dated 16th May 1957, issued following the Finance Minister's Budget Speech on 15th May 1957, superseded the earlier Notifications, restricting in its operation the scope of the concessional import duty to a very limited number of items, viz. Railway Locomotives, Electrical Equipment, Machine Tools and certain other special types of machinery and equipment and, incidentally, removing therefrom many other items of machinery and equipment which could be imported on the partial duty exemption basis in terms of the Notification dated 1st December 1956.

The Committee in their communication, dated the 22nd August addressed to the Government of India, Ministry of Finance, drew attention to the adverse effects that would stem from Government's action as above in confining the concessional rate of import duty to a handful of items, instead of the bulk of capital equipment and machinery as previously. They pointed out that the withdrawal of the concession would seriously upset the calculations of many manufacturing undertakings having programmes chalked out for rehabilitation and/or expansion on the basis of the availability of the reduced import duty on plant and equipment required by them for which they might have placed orders abroad. Further, Government's

action would affect the prices of manufactured goods within the country and the competitive capacity of industries operating in international markets.

The Committee further stressed that the process of rationalisation and simplification of the tariff structure, undertaken in terms of the Finance Minister's Budget Speech, should not be at the cost of the concessional treatment shown to industrial units in the matter of Customs Duty on their capital machinery and equipment imported from abroad, and that at a time when there was all-round demand for maintaining manufacturing costs at as low a level as possible and the need for holding the price line was being felt more and more, any increase in the prices of manufactured articles on account of the enhanced costs of capital equipment and machinery would be most undesirable. The Committee, therefore, requested that Government would be pleased to restore the concession in the rates of import duty available to industrial machinery and equipment covered by the relevant items in the Indian Customs Tariff Schedule. Government in their reply dated 5th September 1957 informed the Committee that their views on the subject were noted.

### **Processing of Coloured Films**

The Committee on 2nd June had addressed the Government of India in regard to the need for giving encouragement to the indigenous coloured film processing units and had, in this connection, drawn the attention of Government to the difficulties that would be experienced by the interests concerned consequent upon Government permitting exports of films for colour-processing abroad and their re-import under a concessional rate of duty. Government in their reply dated 21st October informed the Committee that they were thinking of stopping altogether the export of films for colour-processing and their re-import. In that case the question of concession in import duty on re-imported films would not arise in future.

### **Procedure relating to Transfer of Quotas**

The Committee in a communication dated 21st October addressed to the Chief Controller of Imports referred to their

earlier representations in regard to the difficulties arising out of the complicated character of the procedure laid down in the import control regulations for the transfer of quota rights. The procedure had become vexatious mainly because of the requirement that all changes in the constitution of the firm had to be made by deeds registered with the Registrar of Documents. This procedure involved unnecessary cost and avoidable delay. The Committee, therefore, suggested that Government should agree to copies of documents certified by a notary public or person competent to administer oaths being accepted for the purpose of transfer of quotas.

#### **Concession of claiming licences for Soft Currency on the basis of Imports from Dollar Area**

In terms of Public Notice No. 127-ITC(PN)/53 dated the 12th September 1953 of the late Ministry of Commerce & Industry, applications for grant of soft currency licences on the basis of dollar imports but calculated at the higher rate, in lieu of general licences, would be considered on merits. The attention of the Committee was drawn to reports about applications submitted by certain firms on the above basis being rejected and their being granted licences for the dollar area on the basis of the lower quota percentage.

The Committee in their letter dated the 27th March addressed to the Jt. Chief Controller of Imports, Bombay, pointed out that the concession in question was intended to enable importers having only dollar imports to their credit to take advantage of the higher quota percentage fixed for the soft currency area, if they desired to do so, and, the aforementioned Notice still being in force, there was no reason why applications for grant of soft currency licences based on imports from the hard currency area but calculated on the soft currency quota percentage, in lieu of general licences, should have been rejected. The Committee inquired of the Jt. Chief Controller of Imports as to the circumstances under which such applications were rejected. The Jt. Chief Controller of Imports in his reply informed the Committee that the said concession was being specifically mentioned in the Import Policy Book which was issued from time to time but that there was

no such provision in the Red Book for January to June 1957 licensing period.

The Committee thereupon addressed on 13th June 1957 a communication to the Chief Controller of Imports and suggested that with a view to giving relief to the small importers, the concession of claiming soft currency licences on the basis of Dollar Imports calculated at the higher rate fixed for soft currency licences, in lieu of general licences should be continued in case of such importers. The Chief Controller of Imports in his reply dated the 5th July informed the Committee that the concession was withdrawn during the January-June 1957 licensing period and it was regretted that owing to the difficult foreign exchange position, the said concession could not be revived.

### Import of Basic Raw Materials for Indigenous Industries

The Committee in a communication dated the 18th June addressed to the Chief Controller of Imports and Exports referred to the fact that on many occasions, the actual users' licences were granted for a value much lower than that applied for. They pointed out that apart from the fact that such a procedure involved an element of arbitrariness, there was also the factor of indigenous industries being impeded in adhering to the production targets. They therefore requested that suitable instructions should be issued to the licensing authorities at the ports in regard to the procedure to be adopted for consideration of application for actual users' licences so as not to do anything which would seriously impede the manufacturing programme of the indigenous industries.

The Chief Controller of Imports in his reply dated 4th September informed the Committee that actual users' licences were issued taking into account expected arrivals as well as stocks in hand. For this reason the licences issued to various parties did not always bear the same relation to the values applied for and there was thus no discrimination among the parties. Moreover supplementary licences were issued towards the end of June last and there did not appear to be any cause for dissatisfaction as to the manner in which licences were issued.

## **Actual Users' Import Licences—Issue of Essentiality Certificates for Raw Materials**

The Committee in a communication dated the 18th June addressed to the Director of Industries, Bombay, referred to complaints regarding inordinate delays occurring in the issue of essentiality certificates by the office of the Director of Industries. In some cases, it was pointed out, even preliminary formalities such as inspection of the factories of the applicants were not taken in hand for a long time. In the absence of such essentiality certificates, the applicants were not able to submit their applications, sufficiently in advance of the closing date, to the Import Control authorities. They, therefore, requested him to look into the matter and to ensure that applications for essentiality certificates made by applicants for actual users' licences were attended to and disposed of as expeditiously as possible. The Committee also addressed the Dy. Director of Industries, Rajkot, in the same connection.

The Director of Industries, Bombay, in his reply dated 30th July informed the Committee that their suggestions were noted and would be kept in mind while attending to applications for essentiality certificates. Explaining the reason which might have led to delay in grant of such certificates in some cases, it was pointed that there were marked changes in the import policy for the Jan.-June licensing period which needed clarification before final disposal. Moreover in many cases applications were received only by the last date prescribed by the Directorate of Industries which resulted in accumulation of applications for disposal. All steps however were being taken to deal with the applications as expeditiously as possible.

### **Red Book for the Licensing Period July/December 1956— Appendix No. XXIV**

Appendix XXIV in the Red Book for July/December 1956 carried the heading 'list of articles, the import of which will not be allowed against licences for Serial No. 275/IV as well as for any other Serial Number'. Representations were received in the Chamber that the addition of the words 'as well as for any other serial number' in the Appendix was an over-

sight, since no such words appeared in similar Appendices in the Red Books for the earlier periods or for subsequent ones, that if it was the intention of Government to ban items covered by serial numbers other than Serial Number 275/IV remarks to that effect would have been made in the Red Book against the serial numbers in question, and that as the same was not done there was obviously no intention on the part of Government to ban imports of articles falling under serial numbers other than 275/IV. Attention of the Committee was also drawn to the fact that the Customs authorities in Bombay held the view that the items falling under serial numbers other than Serial No. 275/IV were also banned for imports.

The Committee in their letter dated the 24th August addressed to the Chief Controller of Imports requested Government to clarify the exact position in the above regard, as there was difference of opinion in the interpretation about the items in question between the Customs and the trading interests.

### Distribution of Imported Raw Silk

In a communication dated 14th October 1957 addressed to the Government of India in the Ministry of Commerce & Industry, the Committee referred to their earlier suggestion that with a view to avoiding complete elimination of the established trade channels in the raw silk trade that would result from the policy of canalisation of the imports of raw silk through the Central Silk Board and with a view to getting advantage of the experience of such channels extending over a long period of time, the distribution of the imported supplies should be entrusted to the established traders in raw silk. Government were good enough to consider this suggestion and actively carried on negotiations with the interests concerned for some time with a view to finding out a suitable workable scheme for the purpose of entrusting distribution of raw silk to the traders in raw silk. No scheme, however, seemed to have been evolved so far. The Committee, therefore, requested Government to expedite finalisation of the Scheme and to implement it without any further delay.

### Licensing Policy in respect of Laboratory Chemicals

In terms of the import licensing policy for the January/June 1957 licensing period, licences in respect of laboratory chemicals were to be granted subject to the condition that importers would sell these chemicals only to specified agencies and institutes. The Committee in a communication dated 5th February 1957 addressed to the Chief Controller of Imports referred to, in this connection, to the representations received by them to the effect that as a result of the above condition an important section of consumers such as doctors, hospitals, private laboratories which required laboratory chemicals for research and analytical work would not be able to procure their requirements of such chemicals. Moreover, wholesale and retail dealers who had no imports of laboratory chemicals to their credit would not be able to deal in such chemicals although such dealers served as an important link between the importers on the one hand and consumers on the other. The Committee, therefore, requested Government to consider the matter in the light of these practical difficulties and examine the feasibility of restoring the previous position under which importers were able to sell laboratory chemicals to any person or institution. The Chief Controller of Imports in his reply dated 25th May informed the Committee that their request had been noted for examination while formulating the Import Policy for the next licensing period.

### Import of Wines, Spirits and Beer

The Committee in a communication dated 10th June addressed to the Chief Controller of Imports referred to the representations received by them to the effect that certain hotels and clubs had been issued *ad hoc* licences for import of wines, spirits and beer on their own and suggested that having regard to the very meagre quota of imports allowed to the trade, instead of issuing *ad hoc* licences, the additional quantity of liquor that was desired to be imported for any particular hotel or club should be imported through normal trade channels. Again, any extra quantity of liquor to be imported for the use of any particular agency or section of the community should be allowed to be canalised through the normal trade

channels and no *ad hoc* licences should be issued in respect of such consumer articles. The Chief Controller of Imports in his reply dated 28th June informed the Committee that their views on the subject were noted for consideration.

### **Import Policy in respect of Sulphur**

Sulphur was one of the items which till lately were allowed to be imported under O.G.L. Ever since these items were removed from the scope of the O.G.L.s they were brought under quota licensing. Under the import policy, the basic period for the purpose of establishment of quotas in respect of the items which were falling under expired O.G.L.s was 1955 to 1956. It was suggested that this period should be extended to cover the year 1956-57 so as to enable those who had entered the import trade in the items concerned in that year to get the benefit of quota licence. The Committee in a communication dated 14th October addressed to the Chief Controller of Imports reiterated this suggestion and pointed out that most of the Indian import houses came into the field more or less during the year 1956-57. Moreover, imports otherwise would be less than what would be required for domestic consumption. They, therefore, urged Government to reconsider the import policy in respect of sulphur with a view to extending the basic period therefor so as to include the year 1956-57 in its scope. The Chief Controller of Imports in his reply dated 22nd November informed the Committee that it was not possible to accept the suggestion for the present. However it would be considered while formulating the policy for the next licensing period.

### **Import Licences for Import of Provisions from Jammu and Kashmir**

As published in the Report of the Chamber for the year 1956 the Committee had addressed the Chief Controller of Imports inquiring as to the steps taken to ensure that the goods imported from abroad against licences granted to the Kashmiri traders, specifically for the use of tourists visiting Kashmir, were not sold to or disposed of in any market other than Kashmir. The Chief Controller of Imports in his reply dated

the 11th January 1957 informed the Committee that the Jammu and Kashmir Government had adequate machinery to ensure that goods imported against such licences were not sold in the other parts of India.

### **Import of Medicines and Medicinal Preparations**

As published in the Report of the Chamber for the year 1956 the Committee had addressed the Chief Controller of Imports suggesting that Government should take early opportunity to review the Import policy in respect of medicines and medicinal preparation in the light of the progress made by the indigenous industry and that imports should be allowed only to the extent of the deficiency in indigenous production. The Chief Controller of Imports in his reply dated the 11th January 1957 informed the Committee that quota for drugs and medicines had been reduced from 100 per cent soft and 75 per cent general to 75 per cent soft and 50 per cent general for the January/June 1957 licensing period. Vitamin preparations which could be previously imported upto the full value of the licences for drugs and medicines could be imported only upto 10 per cent of the face value of the licences as a non-listed item.

### **Grant of Import Licences for Motor Vehicle Parts**

As published in the Report of the Chamber for the year 1956 Government had been requested to let the Committee know the reasons underlying the grant of import licences for large values in favour of a firm in respect of certain restricted items of motor vehicle parts and for which the established importers were given licences for very small values. The Chief Controller of Imports in his reply dated the 11th January 1957 informed the Committee that the decision to grant *ad hoc* licences to Messrs. India Motor Parts and Accessories Co. Ltd., Madras, was taken having regard to the circumstances that had arisen due to Messrs. General Motors' decision to close down their business in India, who had appointed the above firm as their agents. The matter however would be reviewed in the light of the suggestions made by the Committee before *ad hoc* licences for January/June 1957 were issued.

### Basic Period for Sodium Perborate

Under the import control policy for January/June 1957 period, Sodium Perborate was shown as a separate item of Chemical, and the basic period applicable in the case of the item was the general one, viz. the one extending upto 31st March 1953.

In their letter dated the 27th March addressed to the Chief Controller of Imports, the Committee pointed out that imports of Sodium Perborate allowed on the basis as above were not sufficient to meet the present demand for the article in the country. Imported previously for the sports goods industry in the country, the chemical was being utilised during the last 2/3 years by the Textile industry also. The increased demand could not be met from imports allowed on the basis of imports during the basic period ending with 31st March 1953. The Committee, therefore, suggested that the basic period fixed for the selection of the best year by established importers in Sodium Perborate should be extended to 31st March 1956. Government in their reply dated 5th April 1957 informed the Committee that their views had been noted for consideration in connection with the Policy Statement for July-Dec. 1957 licensing period.

### Import Policy in respect of Oxalic Acid

Under the Import Licensing Policy for the January/June 1957 period, imports of oxalic acid were allowed on the basis of 50 per cent quota. It had been represented to the Committee that imports of oxalic acid on the basis of this quota were not sufficient to meet the demands of certain industries such as building and textile industries. The Committee in a communication dated 5th February 1957 requested the Chief Controller of Imports to look into the matter and consider the feasibility of suitably increasing the quota for imports of oxalic acid. The Chief Controller of Imports in his reply dated 22nd May informed the Committee that their suggestion had been noted for consideration.

### Import Policy in respect of Studio Lamps

Imports of Studio Lamps were allowed under OGL upto 30th September 1956. Thereafter, the commodity was removed from the OGL and imports were allowed under a quota which was fixed at 75 per cent. Under the Import Control Policy for January/June 1957 period, the quota has been drastically cut down to 25 per cent.

The Committee in a letter dated the 5th March addressed to the Chief Controller of Imports pointed out that the drastic cut in the import quota for Studio Lamps was causing hardship to the indigenous motion picture industry, as the item, though essential for the industry, was not manufactured in the country and the demand for it had increased substantially in recent years owing to rise in production of colour films. Even though under the difficult foreign exchange position of the country it would not be possible to permit imports of a particular commodity or group of commodities in quantities in which they were previously allowed, the Committee requested that, in keeping with Government's avowed anxiety to render all possible help to indigenous industries by removing impediments in the way of their expansion or progress and as the difficulty complained of by the indigenous motion picture industry was genuine, Government should reconsider the question with a view to raising the import quota for Studio Lamps. Government in their reply dated 4th June informed the Committee that their views had been carefully noted for consideration.

### Import Licensing Policy in respect of White Cement

The Committee in a communication dated the 30th December addressed to the Chief Controller of Imports pointed out that the ban on the import of white cement, which was in existence for some time past, had been causing a great hardship to the cement tiles manufacturing industry in the country. White cement was an essential raw material for the industry and it was represented to them that the same was not available from indigenous sources. They therefore requested Government to consider the feasibility of allowing imports of white cement at least by actual users to the

extent of their own requirements during the forthcoming licensing period.

### Issue of Import Licences for Real Pearls under the Export Promotion Scheme

The value for which an import licence under the Export Promotion Scheme is issued is based on a prescribed percentage of the rupee equivalent of the foreign exchange received in payment of the f.o.b. value of the goods exported in respect of real pearls. This percentage was previously 100. It has now been reduced to 50 per cent. The Committee, in this connection, addressed a communication dated 30th December 1957 to the Chief Controller of Imports pointing out that such a reduction in the value of licences issued under the Export Promotion Scheme in respect of real pearls would adversely affect the export trade in this commodity at a time when Government were so keen to stimulate exports in all directions. It was pointed out to the Committee that with such a reduction in the value of import licences, it would be difficult to maintain the existing level of exports. The Committee, therefore, requested Government to be good enough to consider the feasibility of restoring the previous position under which such licences were issued for real pearls on the basis of 100 per cent of the rupee equivalent of the foreign exchange received in payment of the f.o.b. value of the exports.

### Export of Red Chillies

10864

The Committee in their communication dated 13th November addressed to the Chief Controller of Exports referred to the fact that when export of red chillies was allowed from the Madras Port, the export of the same from Bombay was not permitted. In this connection, they referred to the representations received to the effect that there was no justification for not allowing exports from the Bombay Port. Those effecting exports through the Port of Bombay were having long and well established trade connections with the various foreign countries and Bombay in fact was the chief exporting Port of red chillies before the ban on the exportation of this commodity was imposed. The Committee therefore requested

Government that whenever exports of red chillies were to be allowed in future through any Port, the same should be allowed also through the Port of Bombay. The Chief Controller of Imports in his reply dated 3rd December informed the Committee that their suggestion had been noted.

### **Drawback of Duty on Imported Raw Materials used in the manufacture of Goods exported**

In their communication dated the 2nd August addressed to the Federation of Indian Chambers of Commerce & Industry, New Delhi, the Committee pointed out that the scheme of drawback of import duty as in force did not provide the necessary stimulus for any significant increase in the exports of the finished products and as such the scheme required liberalisation. The procedure for registration as authorised manufacturers and for submitting claims, etc. was found to be cumbersome and complicated; exporters had to prove to the definite satisfaction of the Customs authorities that goods were manufactured purely from imported articles, which process was very difficult even in genuine cases. In this connection they commended for favourable consideration the suggestion to determine the rate of rebate on an *ad hoc* basis for individual items, taking into account the approximate estimate of imported raw material used and percentage of duty paid on them, and authorised exporters should be granted the necessary rebate in proportion to their share in exports of the declared articles.

Again, the drawback facility was available only in respect of raw materials stipulated by name in the relevant Rules, while the same product manufactured out of other similar categories of raw materials was excluded from the scheme. The Committee suggested that raw materials selected for purposes of drawback scheme should be classified in a general way and not in terms of a specific kind or brand so as to allow utilisation of other suitable substitutes which might be advantageous to the manufacturers because of easy availability or manufacturing convenience or cheaper costs. The Committee also suggested that, in order to make the scheme more attractive and profitable to the manufacturers, the present administrative delays should be eliminated.

### Export of Manganese Ore

In terms of Public Notice No. 204 dated 29th June 1957 issued by the Jt. Chief Controller of Exports, Bombay, shipments of Manganese Ore railed to the ports against old quotas by 30th June 1957 were to be allowed on an *ad hoc* basis, provided it was proved to the satisfaction of the authorities that such shipments were to be made against contracts entered into prior to 31st March 1957; the concession was to be available upto August 30, 1957. In other words, export of manganese ores against old quotas and against contracts entered into prior to 31st March 1957 were to be allowed only if the goods had been ready for shipment at the ports before the 30th June 1957.

The Committee in their letter dated the 30th August addressed to the Chief Controller of Exports pointed out that the above policy discriminated between those who had been able to move the ores to the ports before the 30th June 1957 and those who could not have done so, owing obviously to difficulties of securing wagons at the mining centres. The policy would, therefore, act harshly on those exporters who were not able to secure wagon space for movement of the ores to the ports. They, therefore, suggested that the policy should be modified so as to allow firm commitments to be fulfilled even though the goods might not have moved to the ports before the date in question.

Further, the Notice also gave small mine owners, whose quotas did not exceed 3,000 tons for the year ending June 1957, the choice to claim quotas on the basis of 60 per cent of their exports in 1955 or 1956 or 75 per cent of their quotas for the period July 1956 to June 1957. As such a concession was not given to exporters, the Committee suggested that the same should be extended to small exporters as well.

The Chief Controller of Exports in his reply dated 6th September informed the Committee that the concession of *ad hoc* shipments extended to quota-holders having ready stock at the port prior to the 1st July 1957 had also been extended to the quota-holders who had railed their ore to the port prior to 1st July 1957 although the ore could not reach the port upto

the 30th June 1957. It was not possible to extend any further concessions to these quota-holders.

### Export Duty on Low Grade Manganese Ore

The Committee in a communication dated the 29th October addressed to the Government of India referred to representations received by them to the effect that there was very little export of low grade manganese ore and that the export duty levied on this commodity was mainly coming in the way of augmenting its exports. Consequently mining operations were interrupted and there was a large accumulation of stocks. The Committee therefore requested Government to look into the matter and consider the question of the export duty on low grade manganese ore with a view to its abolition or at least substantial reduction in the rates thereof. Government in their reply dated 13th November informed the Committee that their views in the matter had been noted.

### Export Duty on Cotton Waste

At present, export duty at the rate of 30 per cent *ad valorem* and 50 per cent *ad valorem* was levied on soft cotton waste and hard cotton waste respectively. It had been represented to the Committee that in the context of the present highly competitive conditions in the export markets, the export duty at these rates was found to be burdensome by the export trade. The Committee in a communication dated the 29th October addressed to the Government of India pointed out that a major portion of the production of cotton waste in the country was sold in the export markets. But of late, the export trade in the commodity was on the decline. Japan, who was the principal buyer was, owing to her foreign exchange difficulties, not being able to absorb any sizeable quantities of this commodity. In European markets India had to face keen competition from other supplying countries. The Committee therefore requested that Government should review the question of export duty on cotton waste, both soft and hard, with a view to abolition or at least a substantial reduction of the rates thereof. Government in their reply dated 12th November informed the Committee that their suggestion in the matter had been noted.

### Custom House Agents' Licensing Rules, 1957

The Committee in a telegram dated 8th August addressed to the Central Board of Revenue referred to the Custom House Agents' Licensing Rules, 1957, and pointed out that the provisions thereof were of a far-reaching character imposing onerous obligations and were likely to disturb the links in the agencies traditionally engaged in the Custom House Clearing Agents' work in Bombay. The Committee expressed the view that the interests directly concerned should have been afforded an opportunity to place their views and suggestions in the matter before the authorities tried to finalise the rules. They urged that the implementation of the rules should be postponed for a period of three months and in the meanwhile, representative organizations directly concerned should be given an opportunity to place their detailed views and suggestions before the authorities. The Central Board of Revenue in their reply dated 10th August, informed the Committee that instructions had been issued to the Collector of Customs, Bombay, to extend the period for submission of applications, for licences under the rules, from 14th August to 31st August. It was also intended that the rules would be given final effect to only from 1st October 1957. In the meanwhile, it was suggested that any representations in regard to the provisions contained in these rules be addressed to the authorities before 31st August 1957. It was added that in terms of the rules, Collectors had been allowed discretion in applying the rules for granting licences to existing licensees for a period of five years. This provision had been made to deal with hard cases suitably.

### Bonds and Guarantees—Attestation of Signatures

The Committee in a communication dated 30th December addressed to the Central Board of Revenue referred to the procedure connected with the execution of bonds required to be submitted by importers desiring to keep the imported goods in bonded warehouse. Every time a business firm executed such a bond it was required to get the signature of the person signing the bond on behalf of the firm duly attested by a J.P. The attestation of the signature on the bond by a J.P. was insisted upon even in the case of firms, specimen signatures

of whose officers signing the customs documents were in the possession of the customs documents. The Committee pointed out that in the case of such firms there was no need for requiring the signature on the bond attested by a J.P. They therefore requested Government to modify the relevant position under the law so as to waive the requirement of attestation of the signature by a J.P. in the case of firms, specimen signatures of the officers of which were already with the customs authorities and therefore could be used for tallying signatures on the bond.

### **Examination of Cotton Textile Bales at the Docks**

Cotton bales meant for export were examined in the Docks prior to shipment. In the Bills of Lading the Shipping Companies made a note in regard to the examination. When the exporters handed over the shipping documents to the Bank for negotiation, the Banks did not consider such bills of lading as 'clean' and, therefore, agreed to honour and negotiate such documents only if the exporters concerned executed a guarantee to the effect that if the documents were not retired by the buyers at the other end they should refund the amount received from the Bank. This process involved an element of delay and placed the exporters in avoidable suspense. The Committee in a communication dated 9th December addressed to the Collector of Customs, while referring to this position, invited attention to the suggestion that if the packing and sealing of cotton textile bales, carried out under the direct supervision of the Central Excise Inspectors posted at the Mills, were taken as final, the difficulty of the type referred to above could be obviated. They, therefore, requested him to give earnest consideration to this aspect.

### **Cotton Cloth used in the manufacture of Embroidered Articles exported from India**

Cotton fabrics intended for use in any textile printing, dyeing, bleaching or sizing processes are exempt from the levy of excise duty. No such exemption was, however, accorded to cloth used in the manufacture of embroidered articles like chaddars, pillow covers, table covers, which were exported

from India in sizeable quantities. The Committee in a communication dated 9th January 1957 addressed to the Collector of Central Excise drew his attention to this position and requested him to consider the feasibility of introducing a system of drawback of excise duty on cloth used in the manufacture of embroidered articles exported out of the country.

### Delay in the Delivery of Airmail Articles

The Committee in a communication dated 14th February 1957 addressed to the Collector of Customs referred to the representations made in the past in regard to difficulties experienced by importers consequent upon the inordinate delay in the receipt of airmail post parcels from overseas countries. They cited particular instance of difficulties experienced by a member in which there was inordinately long delay in receiving even airmail registered articles sent from abroad even after the same was received here. Having regard to the fact that the import of such foreign post parcels by air involved considerable expense and the late receipt of the same involved avoidable inconvenience, the Committee suggested that steps should be taken to so arrange procedural matters as would enable importers to receive airmail articles as early as possible after their arrival in the foreign post office here. The Collector of Customs in his reply dated 19th February 1957 informed the Committee about the circumstances under which the delay in the delivery of the post parcel in the particular case had taken place. In this connection the Collector of Customs pointed out that since lately the procedure known as the counter system of assessment was in force whereby the importer could present the licence and documents directly at the counter and have the parcels released the same day. He suggested that members importing post parcels from abroad should be advised to have the same cleared from the Customs by taking advantage of the procedure laid down under the above order.

## V. GENERAL

### Questionnaire issued by the Foodgrains Enquiry Committee

The Government of India appointed the Foodgrains Enquiry Committee to review the food situation and to examine the causes of the rising trend of food prices and assess the likely trends in demand and availability of foodgrains over the next few years and to make suitable recommendations to ensure a level of prices which would provide the necessary incentive to the producer with due regard to the interests of the consumers and the maintenance of a reasonable cost structure in the economy. The Committee submitted a memorandum of their views to the Foodgrains Enquiry Committee on the main points arising from the reference to the Enquiry Committee. The Committee reviewed the position of foodgrains production in the country and pointed out that although there was an overall rise in the food production much leeway required to be made for attaining self-sufficiency. The food problem was very important from the point of view of the progress of the Second Five-Year Plan. The rising prices had the potential of influencing a general spurt in price level and in consequence releasing forces of industrial unrest which might jeopardise the successful implementation of the Five-Year Plan. They therefore urged that vigorous efforts should be made to increase the food production in the country. In regard to short-term measures the Committee suggested the following:

- (i) As a short-term measure, Government should maintain buffer stocks, particularly in regions where scarcity conditions were more pronouncedly felt with a view to check effectively or bringing down any upward trend in prices.
- (ii) The system of opening Fair Price Shops should be extended as and when necessary, in order to facilitate the supply of foodgrains to consumers at fair prices. So far as distribution of foodgrains to employees of industrial labour and commercial and industrial organizations in big cities was concerned, Government should usefully utilise agencies of organised employers' associations in particular regions.

- (iii) Fixation of maximum and minimum prices for each variety of foodgrains should be considered, with a view to ensuring reasonable and remunerative returns to the farmer.
- (iv) As a means of relieving absolute dependence on cereals, Government should equally concentrate on production of subsidiary food items, such as milk, vegetables, fruits, etc.
- (v) Suitable and adequate provision should be made for transport facilities for movement of foodgrains over different areas.
- (vi) In view of the past, none too satisfactory experience of imposition of controls and rationing, these should not be resorted to, and instead
- (vii) Contraction of credit, especially in major food producing areas, might be undertaken in order to keep possible inflationary pressures under check.

### **Code of Conduct for Insurers**

The General Insurance Council had forwarded to the Committee details of the additional requirements under the Code of Conduct for insurers carrying on general insurance business in India with a request that the same be brought to the notice of members. The Committee in their reply dated 8th May 1957, informed the Council that, as desired, the scheme was being brought to the notice of members. In doing so, however, they pointed out that before finalising and bringing into force the requirements which were of a far-reaching nature, an opportunity should have been given to organizations like the Chamber to examine and express their considered views on the same. Such a course would have assisted the task of the Council in formulating and enforcing the requirements in question in a manner so as to obviate chances of avoidable difficulties to the various interests connected with the General Insurance Business. They particularly referred to the condition that the insurance risk should commence only on the payment of premium and expressed the opinion that the same would create practical difficulties in implementation. While pointing out that they were equally keen to see that

the General Insurance Business in the country was placed on a sound footing and that for that purpose efforts were made to eradicate any malpractices prevalent in the industry, they stressed that efforts in this direction should have been through a process of education and persuasion. Even when it was felt that the purpose could only be served by enjoining upon the relevant interests, specific obligations, representative organizations of trade and commerce could with advantage have been consulted so that the ultimate scheme decided upon for enforcement was free from the possible criticism that in the effort to eradicate any alleged malpractice measures were being taken which would render the growth and development of General Insurance Business difficult.

### Difficulties under the Town Planning Act

The Committee in a communication dated the 9th December addressed to the Government of Bombay in the Housing Department drew particular attention to the demand for housing accommodation in Bombay which was increasing to great extent and stressed the imperative need for creation of conditions whereunder building activity in the City would receive an effective impetus.

In this connection, the Committee drew attention of Government to the various restrictions stemming from the planning schemes framed in pursuance of the Town Planning Act, 1954, as also the practical difficulties experienced in complying with the requirements thereunder, which were acting as serious dis-incentive to fresh building construction activity in Bombay. While expressing their general agreement with the broad aims and principles of an orderly and regulated development of the different Towns in the State in accordance with modern ideas of urbanisation and the requirements in the matter of sanitation, drainage, etc., the Committee pointed out that the problem created by the influx of an ever-increasing number of people into industrial cities like Bombay and the consequent abnormally growing demand for residential accommodation had to be prominently borne in mind and that extension of the Planning Schemes to areas which had already registered a measure of development could not be made with-

out taking into special account the conditions and features therein obtaining. Application of uniform standards and conditions created practical hardships in so far as such standards and conditions were sought to be enforced in towns and cities which had undergone a fair degree of development, as for example in the case of certain developed areas in Bombay.

Detailing the difficulties in this respect, the Committee pointed out that the Town Planning Act, enabling the freezing of land for purposes of regulating the space upto and within which building construction could take place, militated against more bigger and cheaper buildings; the Rules framed by the Municipal Corporation had been hampering progressive development of the City, as they required 2/3rds of the building site being kept vacant allowing only 1/3rd to be built upon, restricted the height of buildings to the ground and 3 upper floors only, disregarding the possibility of providing additional floors by suitable extra arrangements such as setbacks, etc. The Rules came directly in the way of development of a plot by its owner for a number of years continuously, did not permit of the full development of existing buildings for a long time so as to augment their accommodation capacity and rendered repairs to houses in existence very difficult. The impact of the betterment charges sought to be levied fell entirely on owners of property, who were not permitted to recover the same from the occupiers, thereby involving a financial burden on property owners at a time when they were obliged to bear several other imposts; and in fairness and equity property owners should be allowed to recover such betterment charges from the occupiers concerned.

The Committee expressed their feeling that the question of development of the City in its varied aspects should be thoroughly gone into by a high-level Committee, who should weigh the various factors and properly balance the ideas concerning town planning with the overall need for a substantial increase in housing accommodation in the City, and in the light of the findings and recommendations of such a Committee Government should frame a separate Town Planning Act for the developed parts of Bombay City and similar other Cities in the State, in lieu of the present omnibus legislation.

The personnel of such a body should include representatives of interests directly concerned with the matter.

### **Cost Consultant Practice in India**

On many occasions in the past, it had been submitted to Government that they should give greater and greater encouragement and opportunities of service to Swadeshi Enterprises as opposed to foreign enterprises in all fields of activity and only in cases where indigenous enterprise was lacking in skill, efficiency and preparedness should Government look to foreign interests to fulfil the need.

The Committee in a communication dated 31st January 1957 addressed to the Government of India, in this connection, referred to an incident brought to their notice where a certain foreign firm of Cost Consultants, established in India only a few months back, had been given a number of assignments by Government. The Committee stressed that in the matter of new assignments to the Cost Consultants and other professional services also Government should be guided by the above larger considerations of policy of encouraging Indian services in all spheres of economic activity. Moreover, even conditions of eligibility and greater usefulness emphasized the point that Indian firms of Cost Consultants and other professionals should be extended greater patronage and preference in the assignments granted by Central and State Governments.

Government in their reply dated 28th February 1957 informed the Committee that other things being equal, it was the policy of Government to give preference to Indian enterprise in the professional field, but as the profession of Cost Accountancy was still in its infancy in the country, Government could visualize having to allow use of the services of foreign firms of Cost Consultants in appropriate cases where found necessary.

### **Statistical Information about the Export of Cultured Pearls**

The Committee in a communication dated 10th December addressed to the Director-General of Commercial Intelligence and Statistics, referred to the suggestion that more de-

tailed statistical information regarding export of cultured pearls should be given in the records published from time to time of the foreign trade of the country. While record of export of cultured pearls was separately maintained, the same did not include the exports effected through post parcels. It was, therefore, not possible to have a complete picture of the export position in this article. If the suggestion was accepted and along with the same exports effected as outright sales, and those on consignment basis were separately shown, the same would very much facilitate the trade. The Committee requested Government to give due consideration to this suggestion.

### Sending out of Gift Parcels of Tea

The Committee in a communication dated 30th December addressed to the Director-General of Posts & Telegraphs referred to the representations received in regard to the difficulties experienced as a result of the ban imposed on the sending out of gift parcels of tea to West Germany. Although it would appear that the ban was imposed in the year 1955, in the intervening period the ban was not being strictly enforced and gift parcels of tea were permitted to be sent to persons in West Germany. As sending of gift parcels of items like tea to friends abroad was useful from the point of view of developing and maintaining business relations the Committee requested Government to reconsider the position with a view to allowing despatch of gift parcels of tea to the Federal Republic of Germany.

### Issue of Certificates in respect of Agricultural Commodities exported

In the case of exports of certain agricultural commodities, exporters have to forward to their overseas buyers a certificate in regard to the immunity of the commodities under export in respect of weevil, insects pastes, etc. So far as export of such commodities from Bombay is concerned, the Plant Technologist, College of Agriculture, Poona, issues such certificates. The Committee in a communication dated 23rd March addressed to the Government of Bombay, in this connection, pointed out that as the office of the Plant Technologist was in Poona,

exporters found it difficult to arrange in time for his officers to come to Bombay and examine the consignments under export. There was avoidable time-lag and in the absence of availability of inspecting machinery in Bombay, the exporters were often faced with a difficult situation. The Committee, therefore, requested Government to examine the feasibility of the suggestion that they should make some arrangements, whereby the facilities of the inspecting machinery would be available in Bombay on a regular basis. Even if for some reasons, it was not possible to have such arrangements in Bombay itself on a permanent basis, Government should, at least, see to it that exporters in Bombay were able to avail of the existing facility on a more regular basis by arranging the visits of the officers deputed by the Plant Technologist to take place at more frequent and definite intervals.

#### **Requirement of the Letter of Credit being confirmed by the State Bank of India**

The attention of the Committee was drawn to the difficulties experienced by merchants as a result of the requirement enforced by some of the Government Departments of letters of credit established through commercial banks being confirmed by the State Bank of India. The Committee in a communication dated 25th May 1957 addressed to the Government of India pointed out that under such a procedure the importers would be required to pay the charges connected with the opening of letters of credit twice over. Moreover, a trader opening a letter of credit through a first-class commercial bank would also have to get the same advised and confirmed by the State Bank. The Committee, therefore, requested the Government to give consideration to these difficulties and issue necessary instructions with a view to steps being taken for revoking the practice of certain Governmental Departments to insist on a letter of credit established through a commercial bank being confirmed and advised by the State Bank of India.

Government in their reply dated 18th July informed the Committee that the Ministry of Food & Agriculture had agreed to in principle to accept letters of credit established by licensed scheduled banks without any counter-signature

by the State Bank of India for the purpose under reference, but it was added that this question was of academic interest now as the scheme in question had since been wound up.

### Shifting of Factories from the City Limits

The Committee in a communication dated 6th instant, addressed to the Municipal Commissioner, Bombay, referred to the difficulties experienced by some of the Industrial units operating within the City limits as a result of the Municipal Corporation issuing licences for a very small period. The said stipulation would mean that such units would have to shift their activities to some other places beyond the City limits and as the period of extension was quite short, naturally, instead of concentrating on their productive activities they would be obliged to search for alternative sites where their works could be shifted before the end of the time-limit stipulated by the Municipal authorities. The Committee pointed out that in the process of evolving a long-term policy in regard to the location of industries in the future, the industries concerned should be assured of suitable sites equipped with all the necessary ancillary facilities such as water-supply, electricity, transport and means of communication, etc. Till such time as this was made possible, it was necessary that the industrial units concerned should be enabled to function effectively. And, for this purpose, it was necessary that the period of Municipal licences for the location of industries should be for a reasonably longer period.

The Committee had also drawn the attention of the Government of Bombay to the difficulties experienced by establishments who were required to shift and it was urged that the practical realities facing the industries, which had already been established and developed in certain areas, should be taken into account, and in so doing representative organisation of industries like the Chamber and other organisations should be given an opportunity to place before Government their views and suggestions in the matter.

In pursuance of this suggestion the Municipal Commissioner had called an informal meeting of the representatives of certain organisations to discuss the question. The Committee

deputed Shri Gordhandas Morarjee as their representative to attend the meeting. As a result of the discussion at the meeting, the Municipal Commissioner formulated the undernoted approach to the problem which was brought to the notice of the members:

- (i) In respect of old establishments, shifting from existing unsuitable locations would be insisted upon only after they had been offered alternative accommodation, if they were not able to find it themselves.
- (ii) In deciding that an undertaking must shift sooner or later, the considerations that would be taken into account would be the nature of the manufacturing process, the nuisance, if any, that it caused, the investment involved, the nature of the surrounding locality and the future needs of orderly development. These considerations would not apply in the case of new concerns established either without permission or despite objections taken *ab initio*.
- (iii) The Corporation would, wherever possible, try to develop industrial estates for the eventual re-siting of objectionable concerns. Government was also taking steps in the same direction; and some initiative had been taken by industrial associations.
- (iv) The cases of members in respect of whom it was felt that the Corporation's decisions as to the nature of the permit issued or proposed appear harsh or improper should be represented. All such cases would be personally reviewed by the Municipal Commissioner after spot inspection.

#### **Subsidised Industrial Housing Scheme—Difficulties in obtaining Vacant Possession of Houses constructed under the Scheme**

As published in the Report of the Chamber for the year 1956, the Committee had suggested to Government the need for making some legal provision in order to vest in employers the right to obtain vacant possession of the premises allotted to and occupied by their employees whose services had been terminated for one reason or another. Government had not

agreed to the suggestion. The Committee had addressed a further communication reiterating the demand for a suitable remedy for difficulties of the above nature. Government in their reply dated 12th October informed the Committee that the matter had been examined in consultation with the Government of India but it was not considered necessary to act on the lines of the suggestions made by the Chamber. The Committee in a further communication dated 1st November pointed out that the decision of the Government in the matter had to be regretted having regard to the fact that on the one hand the policy regarding Industrial Housing was being intensified and employers compelled to provide accommodation to their employees. As a result of refusal of a discharged employee to vacate the premises allotted to him, the employers would not only be put to the trouble and expenses of taking the necessary proceedings in a court of law but also to provide accommodation for those who may be engaged to fill in the places of the discharged or dismissed employees. The Committee pointed out that with the increase in the tempo of industrial housing, the number of cases requiring eviction of employees was bound to increase and that therefore it was not fair not to provide for any remedy for difficulties of this nature. Government in their reply dated 14th December regretted its inability to reconsider the decision already taken.

### Accommodation Control

The Committee in a communication dated 7th November addressed to the Government of Bombay referred to the difficulties resulting from the control exercised by the Government on accommodation under the Bombay Land Requisition Act, 1948. They pointed out that the control was instituted to serve the needs of an emergency which no longer existed. In fact, the control had been relaxed and the powers under the Control Order were utilised only for the purpose of Government's own requirements and the requirement of Government and public servants. They felt that in this context Government were not justified in incurring considerable expenditure for the maintenance of the organisational set-up. They therefore urged Government to give consideration to this aspect and to announce at an early date their decision to discontinue the

control of accommodation in the city of Bombay in any case after the present validity of the Control Order expired.

### **Delay in the Registration of Documents**

The Committee in a communication dated 30th December addressed to the Government of Bombay referred to the difficulties experienced as a result of long delays caused in receiving, from the Registrar of Assurances, documents execution of which had been admitted by all the parties concerned. As a result of this delay, parties who had to rely upon the documents like purchases, mortgages, were put to great hardship. The Committee, therefore, requested Government to issue necessary instructions to the Officers concerned for the quick return of documents registered with the Registrar of Assurances and thus avoid unnecessary inconvenience to the parties concerned.

### **Transhipment of Consignments lying at Aden**

Following the development of the Suez Canal crisis, the Egyptian Government passed a decree stating that special permission would be required to tranship any cargo to a British controlled territory. Consequently, goods shipped from here and meant for destinations to the west of the Canal which had by that time reached Port Said were discharged at that Port. Difficulties were experienced by shippers whose goods were so lying at Port Said in arranging for onward movement of such goods to their destinations. The interests concerned had made efforts to secure the special permission of the Egyptian Authorities for arranging shipment of the goods from Port Said to their destinations in the British territories like Malta, Cyprus, etc. But, even after a period of six months from the time of shipment, the goods had not reached the buyers. Consequently, exporters here were placed in a very difficult position, as their moneys were locked up for a long period of time, due to circumstances which were beyond their control. The Committee, therefore, requested Government to take up the matter suitably with the Egyptian authorities with a view to expediting the permission for transhipment of the goods from Indian

Ports lying at Port Said to their destinations in British controlled territories.

Government in their reply dated 15th July informed the Committee that the matter was taken up through the Consul-General with the Egyptian Authorities and consequently, in many cases, the goods had already moved from Port Said for their final destinations. It was added that if there were similar cases, the attention of the Consulate-General of India in Cairo should be invited to the same.

### **Encouragement of Indigenous Manufacture of Stores**

It was pointed out to the Committee that the Public Health Engineering Department, Trivandrum, called for tenders for supply of Cast Iron Pipes for the water supply scheme at Ernakulam. Various tenderers had submitted their quotations and even though the tenders submitted by an Indian manufacturing organisation of Hume Pipes was comparatively lower, a decision had been taken to place the order for the supply on two other firms who had offered to supply cast iron pipes of foreign origin.

The Committee in their communication dated the 2nd April addressed to the Government of India drew attention to the fact that the Indian hume steel pipes had earned a name and reputation and were widely used for water supply schemes all over the country since several years. When there were no particular difficulties either from the point of view of price, quality or time of delivery of the supplies required for a particular scheme or project, it would be reasonable to expect that imports of cast iron pipes from foreign sources need not be encouraged involving as it would considerable amount of foreign exchange. Again, one of the important aspects of the Stores Purchase Policy of Government was to give all possible encouragement and a positive preference to indigenous manufacturing units in respect of the stores required by the various Government and quasi-Government departments.

The Committee requested the Government of India to draw the attention of the State Governments to the above

aspect, impressing upon them the larger objective of assisting the growth and development of indigenous industries and in that view of the case to restrict the utilisation of foreign products to the extent absolutely essential.

### **Inadequate Coal Supplies to Manufacturing Undertakings**

The Committee in a communication dated the 11th April addressed to the Coal Controller referred to the difficulties experienced by factory establishments in the Western India Zone on account of the inadequate and irregular supplies of coal requirements received by them from the coal producing centres in Bengal-Bihar. It would appear that the Railways were not able to cope up with the movement of coal supplies to the requisite extent with the result that the industrial units had to slow down and on occasion close their manufacturing activity for want of coal supplies. The Committee therefore requested that this matter should be given urgent consideration with a view to seeing that the supplies of coal to industries in the State were made available at the earliest possible time in the existing conditions.

### **Municipal Roads**

As published in the Report of the Chamber for the year 1956, the Committee had addressed the Municipal Commissioner, Bombay, requesting that necessary action be taken for improving the conditions of the roads in the city. The Chief Engineer, Bombay Municipal Corporation, in his reply dated the 16th February 1957 explained the various schemes of road development undertaken by the Corporation. As regards the maintenance of roads in the city it was pointed out that the condition was fairly satisfactory. A programme had been drawn up for re-surfacing the roads which had deteriorated.

### **Industrial Engineering Workshop (Department of Industries), Bombay**

The Committee in a communication dated 12th August, addressed to the Government of Bombay, referred to the fact that the Industrial Engineering Workshop attached to the Department of Industries, Bombay, was of considerable as-

sistance and use to those desirous of manufacturing or putting up pilot and small machines on an experimental basis and obtaining the necessary assistance in the matter of technical know-how for the purpose. It was reported that the workshop was shifted to Poona. The Committee urged that whatever be the reasons which might have guided Government in deciding to shift the workshop to Poona, it was necessary that the said facility should continue to be available in Bombay. They, therefore, requested Government to arrange to attach a new Industrial Engineering Workshop to the Department of Industries, Bombay.

Government in their letter dated 11th September pointed out that the said decision was taken in the interest of development of cottage, village and small-scale industries. The Bombay city and the area round about it were so advanced industrially that a small workshop like the one in question had little scope in Bombay. Moreover, the small-scale industries in Bombay could approach the Regional Small Industries Service Institute established in Bombay by the Government of India which undertakes research in connection with small-scale industries. The Committee in a further letter dated 28th October pointed out that while they could appreciate the need for increasing this facility in the area where there was more scope for development of small-scale industries it would have been more appropriate to achieve this object by providing for an additional workshop at Poona rather than removing the existing workshop from Bombay. In any case, before taking such a decision Government should have consulted the organised associations of the interests directly concerned and their views on the desirability or necessity for the removal of the workshop in question from Bombay should have been ascertained.

### **Supply of Ammonium Sulphate to Sugarcane Plantations**

The Committee in a communication dated 21st October addressed to the Government of Bombay referred to the difficulties experienced by sugar factories in the State on account of the irregular and delayed supply of ammonium sulphate for their cane-growing operations. Stressing the need for

adequate and regular supply of ammonium sulphate as an essential manure for the growing of sugarcane crops. the Committee pointed out that it was absolutely essential that the cane-growing operations should be allowed un-interrupted by a regular supply of such manure. They, therefore, requested Government to take such action as might be deemed necessary so as to ensure adequate and regular supplies of ammonium sulphate to sugar factories in the State.

Government of Bombay in their reply dated 22nd November while explaining the position of supply of ammonium sulphate to Sugar Factories, stated that the supply was expected to remain tight for some time in future, and therefore use of alternative chemical manure was being encouraged. In view of the difficult supply position, Government expected the interests concerned to co-operate with Government by using other sources of nitrogen, viz. Ammonium Sulphate, Nitrate, Urea, and using other organic manures.

### **Exemption from Excise Duty of Rectified Spirit used for Research Purposes**

The Committee in a communication dated 21st October addressed to the Government of Bombay referred to a representation received from the Deccan Sugar Factories' Association to the effect that Government had not acceded to the request of one of the sugar factories for exemption from excise duty of rectified spirit used for research purposes as "Government had decided not to extend concession of duty-free supply of rectified spirit to industries which are instituted by a private enterprise". The Committee pointed out that several industrial establishments were running their own research wings or departments and research operations carried on by institutions irrespective of the fact whether they are sponsored by Government or by private industry should be accorded all reasonable assistance and facilities. They, therefore, urged that Government should give their consideration to the matter and issue instructions for the exemption from excise duty of rectified spirit consumed by sugar industries for research activities.

Government in their reply dated 13th November observed that in laying down a policy in this matter Government were actuated by the consideration that *bona fide* research by educational and research institutions should be encouraged by extending to them the concession of duty-free supply of alcohol, as in their case no profit motive was present, while the same could not be said of the research carried out by industries. Moreover the non-extension of this concession to Industries was not likely to affect them materially and hamper their work financially. Government therefore regretted their inability to accept the suggestion of the Committee.

### Renewal of Municipal Licences for Storage of Goods in Licensed Premises

The Committee in a communication dated 18th October addressed to the Bombay Municipal Corporation referred to the difficulties experienced by merchants and commercial houses in the city who were licence-holders in respect of premises for the storage of certain categories of goods and wares in the matter of the renewal of their licences. Previously the Municipal Corporation was sending notices to individual licence-holders calling upon them to get their licences renewed. Since the last two years, however, it was pointed out that the practice had been changed and in place of individual notices, an announcement to that effect was inserted in the Press. It was pointed out to the Committee that through inadvertance a licence-holder might not be able to adhere to the requirement of getting the licence renewed within the prescribed time-limit and would, therefore, be put to considerable difficulties. An individual notice might help to obviate such a contingency. The Committee, therefore, requested the Municipal Commissioner to examine the feasibility of restoring the earlier practice of sending out notices to individual licensees calling upon them to get their licences renewed within the specified time.

The Municipal Commissioner in his reply dated 23rd November explained that on the whole the response to the new system which had been introduced to avoid delay in the

renewal of licences had been satisfactory. It was therefore not possible to agree to restore the previous practice.

### Provision for Arbitration in Supply Contracts

In terms of the revised provision for arbitration in supply contracts, all disputes arising out of contracts entered into on the basis of invitation to tender issued by the Director-General of Supplies and Disposals would be referred to the sole arbitration of the Director-General or some other person nominated by him.

The Committee in a letter dated the 6th March addressed to the Ministry of Works, Housing and Supply, pointed out that in revising the provision as above, Government had overlooked the psychological effect that the provision would create in the minds of tenderers. Even under the previous provision, whercunder for arbitration cases from the Government side a person in the employment of Government was usually appointed as one of the Arbitrators, there was a feeling that a salaried employee was not likely to be free from the psychological influence of that position in the discharge of his work as an Arbitrator in a dispute wherein Government, his employer, was one of the contestants. In fact, there was a demand for setting up a panel of arbitrators composed of persons having a background of experience and legal acumen necessary therefor. The Committee mentioned that the new arrangement was more objectionable because it provided that arbitration by a Government servant or by a person who had to deal with matters to which the contract related or by a person who in the course of his work as Government servant expressed on all or any of the matters in dispute or difference, could not be objected to, and would create a sense of diffidence in contractors about their case receiving adequate consideration in arbitration proceedings. Naturally, a tenderer who was disinclined to refer disputes to the sole arbitration of the Director-General, was free not to agree to such a position and, in that event, he was denied the right of settling a dispute by arbitration and had to resort to a court of law for remedy, with all the attendant delay and expenses. The Committee requested Government to review the position

thereby restoring the right of the contractor to nominate an Arbitrator of his choice from his side in cases of disputes concerning supply contracts. Government in their reply dated 20th March pointed out that the revised position was enforced after full consideration of the recommendations of the Stores Purchase Committee on the subject. Moreover, contractors not desiring to avail of the arbitration of the Director-General of Supplies and Disposals were free to do so. In view of this, Government felt that the new Clause should be given a fair and reasonable trial. The Committee in a communication dated 8th May again stressed the need for the review of the decision with a view to restore the earlier position which conferred on both the parties to a contract the right to nominate an arbitrator from his side. Government in their reply dated 17th May pointed out that the revised arbitration clause provided for the tenderer to exercise an option at the time of submitting his quotations to reject this clause in which case there would be no provision for arbitration at all and the ordinary course of law for disputes in a Court of law would prevail. It was added that instructions had been issued to the Director-General of Supplies and Disposals that acceptance or otherwise of the clause should not influence the decision on the tender.

The Committee in a further communication dated 1st June on the above subject pointed out that even considering the option given to a contractor to go to a Court of Law, the revised position regarding arbitration in supply contracts was not satisfactory in that a supplier not desiring to agree to the arbitration by the D.G.S. & D. would have to forego the facility of arbitration for the purpose of settling a dispute arising out of a supply contract. The Stores Purchase Committee had recommended that both the sides to the dispute should have a right to nominate their arbitrators and that the arbitrators to be chosen should be from those borne on the list of arbitrators maintained by the Federation of Indian Chambers of Commerce and Industry or persons having requisite experience of practice and judicial office. Therefore, the Committee again requested that Government should modify the Clause in question and provide for both the sides to the dispute to have a right to appoint arbitrators from their side. Government in their reply dated 12th June explained

that the revised clause was incorporated in the interest of speedy settlement of a dispute by arbitration and in arriving at such a decision the recommendations of the Stores Purchase Committee as also the points made by the Committee of the Chamber were all very carefully considered by Government but they felt that the revised clause as adopted by Government was the best in the interest of all parties.

### **Delay in the Refund of Earnest Money Deposits**

The Committee in a communication dated 28th October addressed to the Government of India, Stationery Office, Calcutta, referred to the difficulties experienced by tenderers as a result of requirement of submission of earnest money deposit along with the tenders and in that connection referred to instances brought to their notice in which refunds were not forthcoming even though the relative deposits were made along with tenders submitted in the year 1951-52. They pointed out that such inordinate delays in the refunds of earnest money deposits placed the interests concerned in serious difficulties as considerable amounts would be locked up in the form of earnest money deposits submitted along with tenders, from time to time. The Committee suggested that the procedure in regard to the refund of earnest money should be modified so as to provide that refunds should be paid within a period of six months from the date of the rejection of the relevant tenders.

### **Registration of Suppliers by the Director-General of Supplies and Disposals**

As published in the Report of the Chamber for the year 1956, the Committee had addressed the Director-General of Supplies and Disposals in regard to the revised arrangements under which suppliers registered with the Director-General would have to periodically apply afresh on a payment of fresh registration fee for the purpose of such registration. The Director-General in his reply dated the 20th February 1957 informed the Committee that the decision to review the registration of suppliers already registered with the organisation was based on the recommendation of the Stores Purchase

Committee. With a view to causing the least dislocation, however, to the registered firms it was proposed that normally registration of only those firms would be reviewed which was over 3 years old. Moreover, it was not intended to ask all firms at the same time to apply afresh, and that the process would be spread over a long period. All individual registered contractors would be given notices from time to time to put in fresh applications and for this purpose application forms would be made available for sale in the regional supplies offices at Bombay, Calcutta and Madras.

### Placement of Contract on Price Variation Basis

As published in the Report of the Chamber for the year 1956, the Committee had addressed the Director-General of Supplies and Disposals suggesting that in all tenders issued by the Department, there should be no insistence on quotations being made on a fixed price basis and that each and every tender should provide for price variation clause so as to accommodate price variations occasioned by the operation of recognised practice. The Director-General of Supplies and Disposals in his reply dated the 19th February 1957 observed that it was the policy of the Government to place contracts on firm price basis and the previous practice of incorporating the price variation clause in invitations to tenders had been discontinued. There would however be occasions when some contracts had to be placed with price variation depending on the merits of each case.

### Conditions governing the Contract of the Central Public Works Department

The Committee in a communication addressed to the Government of India referred to the difficulties experienced by contractors as a result of the various clauses in the contract forms adopted by Government for the execution of Civil Engineering contracts. In this regard, they have referred to the complaints that the conditions of the contract were one-sided, arbitrary and consequently were not serving the best interests of both the Government as well as of the contractors.

These provisions in main relate to the power vested in the Engineer-in-charge, delay in payment of bills in respect of works executed by contractors, scheme regarding arbitration in cases of a dispute, etc. The Committee made detailed observations on some of the aspects of the difficulties and pointed out that the contractors had been making efforts in the direction of getting the conditions of contract relating to these aspects suitably modified since a very long time. They therefore urged that Government should take early opportunity to consider the suggestions so as to make the contract conditions fair and equitable to both the parties to the contract.

Government in their reply dated 18th October to the communication referred to above dated 1st October observed that the various points raised by the Committee had already been carefully considered by Government and the reactions of Government had been conveyed to the Civil Engineering contractors and their associations at various periodical meetings. In regard to the various points raised by the Committee Government observed that the Engineer in charge had instructions that orders on various points should be issued after consulting the competent authority. If the contractors were not satisfied they might appeal to the Senior Officer. In regard to the aspect of payment of interim and final bills it was pointed out that in the revised agreement that was proposed to be brought into force it was being provided that running bills would be paid monthly and undisputed items in the final bills would be paid within 3 months, if the cost of works was less than Rs. 2 lakhs and 6 months if it was more than 2 lakhs. In regard to the clause governing arbitration it was decided that all arbitration cases would be dealt with by independent officer appointed in the Central Public Works Department. In regard to the point for compensation for delay on the part of the Department, Government observed that they would consider all the cases on merits. In regard to the penalty for delayed execution Government added that the point was kept in mind while deciding the cost of penalty. The matter is under further correspondence with Government.

## Difficulties in the submission of Certified Copies of Correspondence required by the Director-General of Supplies and Disposals

The Committee in a communication dated 19th December addressed to the Director-General of Supplies and Disposals referred to representations received by them to the effect that on occasions when contractors were required to submit certified copies of correspondence and agreements, etc., they were being required to submit such correspondence duly certified by a First Class Magistrate or a Notary Public. It was pointed out that this requirement created practical difficulties in that it was not always possible for the contractors to comply with the requirement by being able to get a First Class Magistrate or a Notary Public to sign such documents in time. In this connection, they referred to the suggestion made to them to the effect that this difficulty could be obviated if the Government agree to accept such documents duly certified by a J.P. The Committee requested Government to give due consideration to this suggestion.

## Terms and Conditions of the Tenders issued by the Bombay Municipal Corporation

In a communication dated the 25th November addressed to the Government of Bombay in the Local Self-Government & Public Health Department, the Committee drew attention to the terms and conditions of the tenders issued by the Bombay Municipal Corporation for purchase of its requirements of stores and materials. According to those terms and conditions, contractors might have their names registered as 'approved contractors' and for that purpose they were required initially to deposit a considerable amount as standing deposit. Even such registered contractors were required to furnish 'earnest money' deposit and security deposit along with each tender filled in by them. Other requirements were the obligation to execute contracts on a stamp paper which implied a substantial burden of stamp charges, legal charges on account of preparation of contracts, etc. Manufacturers and suppliers were put to serious difficulties as a result of these

terms and conditions, especially in the context of the existing monetary stringency.

In this connection, the Committee also pointed out that as per the terms and conditions of the tenders issued by the Directorate-General of Supplies & Disposals, registered suppliers were not ordinarily required to furnish any security deposit and even in cases of non-registered firms there was a provision enabling the authorities to relax the security deposit clause on merits. The deposit, where required, had to be made on acceptance of the tender and no earnest money was required to be deposited at the time of submission of tenders. Further, the Committee also invited Government's attention to the recommendations of the Stores Purchase Committee stressing the need for securing uniformity in the purchase procedure by various purchasing agencies.

The Committee requested Government to take early opportunity of modifying the relevant provisions of the Bombay Municipal Corporation Act with a view to altering or modifying the terms and conditions of the tenders issued by the Corporation in a manner as would obviate the difficulties of the contracts as referred to above.

#### **Conditions governing the Tenders issued by the Bombay Port Trust**

As published in the Report of the Chamber for the year 1956, the Committee had addressed the Bombay Port Trust urging that a suitable modification should be brought about in the terms and conditions governing the tenders issued by the Bombay Port Trust so that the tenderers would be relieved of the obligation to pay earnest money and security deposits in cash. The Port Trust in their reply dated the 11th January 1957 observed that as regards the earnest money, a system of permanent deposit of Rs. 2,000 against the earnest money required for tenders was introduced in 1954. This system had gone a considerable way in relieving the hardship of the tenderers. If the system of earnest money was completely done away with there was the risk of and inconvenience resulting from indiscriminate tendering. In regard to the security deposits it was pointed out that it was not possible

to accept such deposits in banker's guaranteed bond mainly due to the legal difficulties in the way of enforcing such guarantees.

### **Delegates to the 30th Annual Session of the Federation of Indian Chambers of Commerce & Industry**

Shri Naval H. Tata, Shri G. P. Kapadia, Shri Babubhai M. Chinai and Shri Ratilal M. Gandhi were nominated as Delegates to represent the Chamber at the 30th Annual Session of the Federation held in Delhi on 22nd March 1957.

### **Election of Office-Bearers of the Federation of Indian Chambers of Commerce & Industry for 1957-58**

The Committee nominated Shri Babubhai M. Chinai for Election as the President of the Federation. Shri Babubhai Chinai was since duly elected as President of the Federation for the year.

### **Resolutions for the 30th Annual Session of the Federation of Indian Chambers of Commerce & Industry**

Resolutions on the following subjects were forwarded for consideration in connection with the 30th Annual Session of the Federation held in New Delhi on 22nd March 1957 :

1. Industrial expansion—need to reduce cost structure.
2. Export Promotion.
3. Uniformity in sales tax policies.
4. Payment of bonus—need for formulating guiding principles.
5. Tightness in money market.
6. Spate of hasty legislation.
7. The Indian Patent system.
8. Need for modifying provisions re : responsibility of public undertakings in respect of goods entrusted to them.

**Conference of Cotton Textile Industry and Trade convened by the Federation of Indian Chambers of Commerce & Industry**

The Committee nominated the following as Delegates to the Conference of Cotton Textile Industry and Trade convened by the Federation of Indian Chambers of Commerce & Industry at New Delhi on Sunday, the 14th July 1957:

- Shri Naval H. Tata (President)
- „ Gopaldas P. Kapadia (Vice-President)
- „ Madanmohan R. Ruia
- „ Ramnath A. Podar
- „ Gordhandas G. Morarji
- „ Ratansi Champs.

**Sales Tax Conference convened by the Federation of Indian Chambers of Commerce & Industry**

The Committee nominated the following as the Delegates from the Chamber to the Sales Tax Conference convened by the Federation of Indian Chambers of Commerce & Industry in Bombay on Wednesday, the 24th July 1957:

- Shri Naval H. Tata (President)
- Shri Gopaldas P. Kapadia (Vice-President)
- Shri Devji Rattansey
- Shri Ratansi Champs.

**Conference of Transport convened by the Federation of Indian Chambers of Commerce & Industry**

The following were nominated as Delegates to the Transport Conference convened by the Federation of Indian Chambers of Commerce & Industry on Monday, the 9th December 1957 at New Delhi:

- Shri M. A. Master
- „ C. H. Bhabha
- „ Pratapsinh Shoorji Vallabhdas
- „ B. D. Somani.

### **Election of a Representative of the Federation on the General Council of the Indian Standards Institution**

The Committee nominated Shri Babulal Bubna as a candidate for election as a representative of the Federation on the General Council of the Indian Standards Institution. Shri Bubna has since been duly elected.

### **Delegates to the 23rd Annual Session of the All-India Organisation of Industrial Employers**

The Committee nominated (1) Shri Naval H. Tata, (2) Shri G. P. Kapadia, and (3) Shri Babubhai M. Chinai as delegates to the 23rd Annual Session of the Organisation.

### **State Advisory Council of Industries**

The Committee have nominated Shri Naval H. Tata as the Representative of the Chamber on the Advisory Council of Industries constituted by the Government of Bombay.

### **Labour Advisory Board**

The Committee have nominated the President as the Representative of the Chamber on the Labour Advisory Board as reconstituted by the Government of Bombay.

### **Food Advisory Committee for Greater Bombay**

The Committee have nominated Shri Ratilal M. Gandhi as the Representative of the Chamber on the Food Advisory Committee for Greater Bombay, constituted by the Government of Bombay.

### **Appointment of a Representative on the State Transport Authority**

The Committee nominated Shri Dhirajlal Maganlal as the representative of the Chamber on the reconstituted State Transport Authority.

## Zonal Railway Users' Consultative Committee of the Western Railway

Shri Pravinchandra V. Gandhi has been nominated as the representative of the Chamber on the Zonal Railway Users' Consultative Committee of the Western Railway in place of Shri B. D. Somani since resigned.

### Death of Shri B. G. Kher

The Committee at their meeting held on 12th March 1957 passed a resolution recording their sense of loss at the death of Shri B. G. Kher and conveying their condolences to the family of the deceased. The meeting adjourned as a mark of respect to the memory of the late Shri Kher, without transacting any business. The office of the Chamber remained closed on 8th March 1957.

### Death of Shri Gordhandas Sonawala

The Committee at their meeting held on 2nd April passed a resolution recording their sense of loss at the passing away of Shri Gordhandas Sonawala. The meeting adjourned as a mark of respect to the memory of the late Shri Gordhandas Sonawala.

### Death of Sir Behram N. Karanjia

The Committee at their meeting held on 16th July 1957 passed a Resolution placing on record their sense of loss at the death of Sir Behram Karanjia. The meeting of the Committee adjourned without transacting any business as a mark of respect to the memory of late Sir Behram Karanjia. The Office of the Chamber remained closed on the 15th as a mark of respect to Sir Behram, ex-President of the Chamber.

### Death of Shri Morarji Mulraj Khatau

The Committee at their meeting held on 5th November passed a Resolution placing on record their sense of loss at the sad death of Shri Morarji Mulraj Khatau.

### **Death of Shri Keshavprasad C. Desai**

The Committee at their meeting held on 26th November 1957 passed a Resolution placing on record their sense of loss at the death of Shri Keshavprasad C. Desai. The meeting of the Committee was adjourned without transacting any business as a mark of respect to his memory.

### **Death of Sir Rahimtoola M. Chinoy**

The Committee at their meeting held on 29th November 1957 passed a Resolution placing on record their sense of loss at the death of Sir Rahimtoola M. Chinoy. The meeting of the Committee was then adjourned without transacting any business. The Office of the Chamber remained closed on Wednesday the 27th November as a mark of respect to the memory of Sir Rahimtoola who was an ex-President of the Chamber.

### **Membership of the Chamber**

At the beginning of the year, there were on the Register 2,080 Members. During the year 97 were elected; and 115 discontinued their membership. There are thus 2,062 Members now on the Roll.

It may be mentioned that there were 117 Association Members at the beginning of the year. 11 Associations joined as Members and 7 resigned during the year. There are thus 121 Association Members.

### **Commercial Examinations**

The Commercial Examinations conducted by the Chamber in various centres in India were held from 29th April to 6th May 1957. The total number of candidates who appeared at these examinations was 914. Out of these 80 passed in Diploma subjects and 297 passed in Certificate subjects. 117 candidates were accorded exemptions in various subjects. 49 recognised institutions sent candidates for the examination. The examinations were held in the following centres:—

Ahmedabad	Nagpur
Bhavnagar	New Delhi
Bombay	Palghat
Calcutta	Poona
Chirala	Quilon
Indore	Ratlam
Kayamkulam	Surat
Madras	Trichur
Madurai	Trivandrum
Mysore	Ujjain

The Diplomas and Prizes to the successful candidates in the 1957 Commercial Examinations were distributed by Shri Hitendra K. Desai, Minister for Education, Government of Bombay, at a function held on 14th December 1957.

### Library of the Chamber

During the course of the year 90 books were added to the Library of the Chamber apart from the reports received from the Central and State Governments and other minor pamphlets received from various institutions. About 1,000 members of the Chamber and their friends took advantage of the books available in the Library. Nearly 2,500 inquiries were answered in connection with reference books and such other minor information through the Chamber's Library. It is earnestly hoped that more members would frequently take advantage of the various books and journals received in the Chamber and profit from the literature available therefrom.

### Accounts

The Statement of Accounts of the Chamber for the year ended 31st December 1957 with the Auditors' Report is annexed hereto. It will be observed that a sum of Rs. 3706.30 has been received as contribution from the Representatives of the Chamber on various public Bodies. The best thanks of the Committee are due to the gentlemen who have made these contributions.

## APPENDICES

### I. TRANSPORT AND COMMUNICATIONS

#### APPENDIX 1

##### **Freight Surcharge due to Closure of Suez Canal and Liability therefor**

*Letter dated 11th February 1957 from Chamber to the International Chamber of Commerce, Paris.*

As the International Chamber of Commerce is aware, following the closure of the Suez Canal, steamship companies which were normally using the Canal, decided to route their vessels via the Cape of Good Hope. With a view to meeting the increased expenditure involved in the longer voyage, the shipping companies also decided to levy a surcharge of 15 per cent on freight rates for the cargoes so carried by them. Issues have naturally arisen in regard to the liability for the payment of the surcharge, as between the Indian exporters and foreign buyers on the one side, as well as between the Indian shippers and the shipping companies concerned on the other.

In regard to the contracts entered into on the c.i.f. basis by Indian exporters prior to the decision to levy the surcharge on freight rates, disputes have arisen between the exporters here and the foreign buyers about the question of liability for the surcharge. While no difficulty is felt in the case of contracts in which specific provision is made as to the party liable for any increase in freight rates, the buyers contend that, in respect of contracts wherein there is no such specific provision, their liability is only to the extent of the freight which was in existence when the contract was entered into and that, as far as the surcharge was concerned, the sellers should bear the same. On the other hand, it is the sellers' contention that any increase in freight rates should be borne by the buyers and in this behalf they rely on a Convention to this effect. They point out that the very fact that certain standard contracts of Trade Associations do contain a provision fixing the liability for any increase in freight due to diversion of the route or any other reason after the contract has been entered into, on the buyers, is proof of, and pre-supposes, the existence of such a Convention. Again, while the buyers argue on strict legalistic prin-

ciples, the sellers point out that in equity the buyers should reimburse them of their out-of-pocket expenses incurred as a result of the subsequent increase in freight due to no fault of their own.

Another question which follows from the above decision, as stated earlier, is that concerning the liability for payment of the surcharge as between the Indian shipper and the steamship company, in respect of freight bookings entered into prior to the date of the imposition of the surcharge. In such cases, both the parties contend that the situation has been brought about due to no fault of theirs and that the same is beyond their control. Either party argues that the other party should bear the increase. Shippers also contend that, while as a result of the delay in the arrival of the vessels for picking up the cargo due to their having to traverse on a longer route, they have been put to serious inconvenience and loss, it was not fair for the steamship companies to saddle them with the additional burden in form of increased freight, especially in view of the fact that contracts were entered into even before the date of imposition of the surcharge.

In this connection, we understand that some of the Conference Lines do not levy the surcharge, even though their vessels also have to round the Cape of Good Hope, in respect of contracts entered into before the relevant date for shipments of Oils in bulk, for the carriage of which it is the practice to enter into firm contracts. For other kinds of advance freight bookings, the liability for the increase in question is placed on the shippers.

In view of the conflicting arguments raised by the parties affected regarding the liability for the increase in freight rates, it is suggested that the International Chamber of Commerce may go into the question of liability as to the payment of increased freight rates or surcharge on freight rates arising out of deviation of routes under circumstances such as the one mentioned in this letter and give its concerted opinion on the same.

You will kindly let this Chamber hear from you in the matter at an early date.

*Letter No. 380-FE-493 dated 22nd February 1957 from the International Chamber of Commerce to Chamber.*

I beg to refer to your letter of 11th February 1957 on the above subject.

I am afraid it is not possible to advocate a general and absolute position to the two questions you raise as regards, first CIF contracts and second, transport contracts.

Of course, in principle, it may be considered as regards CIF sales, that, if Indian exporters have conducted business on this basis, at a fixed price, without making any reservation in the contract as regards any variations in freight rates—subsequent to the conclusion of the sales contract—the buyer may claim the price originally stipulated to be final. In other words, unless otherwise stipulated in the sales contract, variations in the freight rate or in other elements of the CIF prices in no way affect the agreement of the parties. However, this principle may be set aside, in practice, by considerations regarding the intentions of the parties, with the result that such interpretation of the agreements on the parties may vary according to the law courts applied to.

The same remarks apply to transport contracts. Here again, everything depends on the general or particular terms stipulated by the parties concerned, as well as on any similar fact which may be taken into consideration as to the intentions of the parties.

We trust you will understand from the above that the whole matter amounts to a question of contract with which it is not for us to interfere.

## APPENDIX 2

### **Re-introduction of the Stamped Shipping Orders**

*Letter No. F.C.298/516 dated 27th November 1956 from the Federation of Indian Chambers of Commerce & Industry to Chamber.*

I have been informed by the Ministry of Commerce and Consumer Industries that the question of introducing once again a system known as Stamped Shipping Orders is under examination. The system was prevalent before the Second World War and provided for a binding contract between the shipping company and the shipper in respect of shipping space. Under this contract, the shipping company had the obligation, by issuing the Stamped Shipping Order, to provide space for

the cargo in the named steamer and at the claimed freight, whether the shipper utilised that space or not. There was a corresponding obligation on the part of the shipper to provide the cargo mentioned in the Order. This system has been abolished after the Second World War with the result that a Shipping Order by a shipping company now does not oblige the shipping company to accept the cargo, nor does it oblige the shipper to ship the cargo.

It is possible that under the present system, which does not involve any contractual obligation between the two parties, there might be complaints that the shipping companies shut out certain cargo even after promising in the first instance to make the shipping space available. I am, therefore, to request you to bring this to the notice of your constituents and let me know whether such complaints exist and if so the particulars in the case of each complaint. Could you also let me have your views as to whether you feel that there is need for a rigid system of contracts between the shippers and the shipping companies in regard to shipping space?

I shall be obliged if you will kindly let me have *your replies as early as possible* as the matter is currently being examined by Government.

*Letter No. 198 dated 18th January 1957 from Chamber to the Federation of Indian Chambers of Commerce & Industry.*

Please refer to your letter No. F.C. 298/516 dated 27th November 1956, on the above subject. The Committee have given very careful consideration to the proposal for re-introducing the system of stamped shipping orders and have come to the conclusion that taking all the factors into consideration, the balance of advantage would indicate a continuation of the existing procedure.

The Committee are aware that the existing procedure whereunder a shipping company issues a shipping order does not involve any contractual obligation. There are on occasions complaints that cargoes have been shut out even after shipping space has been promised in a particular steamer. The feasibility of re-introducing the system of stamped shipping order is, therefore, being examined with a view to obviate such a position. My Committee, however, feel that notwithstanding occasional complaints of the character referred to above under stress of unavoidable circumstances, the experience of the exist-

ing procedure by and large has been satisfactory and the shipping companies generally accept the cargo against shipping orders. At the same time it must be recognized that the existing arrangement also vests in the shipper an element of liberty in determining as to who should or should not avail of the freight bookings he has made with a particular shipping company by a specific steamer. There are occasions when due to reasons beyond his control, a shipper might find it impossible to adhere to his commitment. If the freight is to be allocated on the basis of stamped shipping order, a shipper on such occasions would be faced with a very difficult position as he would be required to bear the burden of dead-freight. As against this, there is every possibility that even under a system of stamped shipping orders, the shipping companies would be able to introduce in their contracts protective provisions enabling them to cancel freight space under certain conditions without incurring any penalty.

In short, my Committee consider that the present practice by and large has worked satisfactorily both from the point of view of shipping companies as also the shippers and that if any element of rigidity is introduced by enforcing a system of stamped shipping orders, the same may, on occasions, create difficulties and would come in the way of co-operative effort to utilise available shipping space on the part of both the shipping companies and the shippers.

### APPENDIX 3

#### **Liability of Internal Air Service in respect of Injury or Damage caused to Passengers or Goods**

*Letter No. 2106 dated 30th September 1957 from Chamber to the Ministry of Communications, Government of India.*

The Indian Carriage by Air Act was enacted with a view to giving effect to the convention for unification of certain rules relating to rights and liabilities of carriers, passengers, consignors, consignees and other persons. The convention defines the liability of air carriers for injury or damage caused to passengers or goods. The convention applies only in respect of international carriage by air. Section 4 of the Carriage by Air Act, however, specifically empowers Government to make rules extending the provisions of the convention also to internal

carriage by air and to issue necessary notification so that the rules included in the First Schedule of the Act would also be applicable to internal carriage by air. The rules in question have not so far been applied to the internal carriage by air and no notification envisaged in Section 4 of the Act has been so far issued. In the absence of a specific law defining the liability of a carrier in respect of transit of goods by air internally, it is open to a carrier to limit the liability in respect of loss or damage to goods carried by it, by stipulating the terms and conditions on which it would be prepared to enter into a contract with the consignor for the carriage of his goods.

Accordingly, the Indian Airlines Corporation accepts air freight on the basis of a consignment note on the reverse of which general conditions of the carriage are set out. In terms of the same, the Corporation limits such liability to the actual value or Rs. 300 whichever is lower on occasions of loss or damage to goods during the course of carriage notwithstanding the fact that such loss or damage might have been caused by the act of negligence, neglect or default of the carrier. This creates hardship in the case of loss or damage of valuable parcels entrusted to the Indian Airlines Corporation for carriage. The present position is such that under the general conditions of contract under which such goods are carried and to which a consignor is a party, even when the loss of the goods occurs while in the custody of the carrier and there are all indications to show that it was lost in transit, the consignor would have no remedy for obtaining adequate compensation. This position has led to litigation in some cases and my Committee would particularly invite Government's attention to the Judgment in the case of *Jothaji Maniram vs. Indian Airlines Corporation*. (Ref. Suit No. 5772 of 1955 and N.J.A. No. 264 of 1956 in Suit No. 5772 of 1955 in the Small Causes Court at Madras.) It was held that the party was entitled to compensation of Rs. 300 only as provided for by the general conditions of carriage. The party went in appeal and the court held that in view of Section 8 of the Carriage Act, taken along with the principles of English Common Law, the applicants were entitled to recover the full value of the parcel lost through the negligence of the Indian Airlines Corporation.

Although the outcome of the legal action in this particular case has been favourable from the point of view of the aggrieved party, my Committee cannot help pointing out that this aspect requires the urgent attention of the Government of

India, as otherwise, in the absence of any legal provision governing the liability of the carrier in respect of loss or damage of goods while in the custody of the carrier, the consignor would have to rest content with the amount of compensation stipulated in the general terms and conditions of carriage or to pursue his claims for full or adequate compensation in a court of law. In this connection, my Committee would like to refer to the observations contained in the judgment given by the Small Causes Court at Madras in the particular case to which a reference has been made. It was observed :

" We endorse the observations of the learned trial judge that it is also necessary and desirable in view of the ever increasing demand for air traffic, early notification should be issued by the Government of India applying the rules in Chapter III of the Carriage by Air Act, which makes the Air Corporation liable for loss of goods accepted on a consignment note to internal air traffic also."

My Committee request that Government will be good enough to give urgent consideration to the suggestion made herein.

#### **APPENDIX 4**

#### **Bonded Warehouse for Air-freight Packages and Parcels**

*Letter No. 1768 dated 12th August 1957 from Chamber to the Central Board of Revenue.*

The Committee of the Indian Merchants' Chamber had, in the past, drawn the attention of the Government to the need for instituting a scheme of bonded warehouses for goods imported by air. At present, there is no bonded warehouse for goods arriving by air as a consequence of which such goods had to be cleared immediately on payment of import duty. If such bonding facilities are provided, it would be a great facility to merchants desiring to re-export the goods to some other destination. Moreover, in items like films, it has been pointed out to my Committee, that it is normal for an importer to keep it in bond and arrange for its censorship so that if the film is not passed by the Censors or by some other reason the importer comes to believe that the film will have no commercial value in India, the film can be shipped back to the shipper, thus freeing the importer from being obliged to pay import duty

on the same. In the absence of a facility for bonding the articles received as air freight, the importing interests in the line are put to considerable difficulties. On representation from the Chamber and several other organisations, the matter was considered by Government and it would appear that pending further consideration of the same they had agreed to allow the articles imported by air being bonded in a private bonded warehouse along with the goods imported by sea subject to specified conditions.

In this connection, as has been pointed out earlier it would be very difficult for private individuals or organizations to maintain a bonded warehouse for small articles imported by them as air freight. On the contrary, articles received by air are in their very nature comparatively light and small in size and the authorities should not have any difficulty in agreeing to allow these articles bonded in a separate or in the warehouses where cargo received by sea or post are kept.

My Committee request that Government will review the matter and make suitable provision for warehousing of articles imported by air.

*Letter No. F.No.3/20/57-Cus.VII dated 4th September 1957  
from the Central Board of Revenue to Chamber.*

I am directed to refer to your letter No. 1768 dated the 12th August 1957 on the above subject, and to say that the goods imported by air can be kept in a public or a private bonded warehouse even at present, if the importer so desires. The only public bonded warehouse at Bombay, at present, is that of the Bombay Port Trust. If your Chamber desires that there should be a warehouse at the Santa Cruz airport, you may either approach the Director-General of Civil Aviation in India to move in the matter, or may apply for a licence for a private bonded warehouse.

2. As regards censorship of films in a bonded warehouse, I am to state that in the case of warehoused goods, only such operations as are permissible under section 100 of the Sea Customs Act can be carried out. As censorship of films is not permissible in that section, this operation cannot be allowed. It is, however, not correct to state that if a film is not certified by the censors, the importer has to bear the burden of duty. He can claim drawback of duty in such cases on fulfilling the statutory and procedural requirements.

## APPENDIX 5

### Imposition of Time-limit for filing of Applications for Remission of Demurrage Charges paid to the Bombay Port Trust

*Letter No. 1942 dated 9th September 1957 from Chamber to the Bombay Port Trust.*

The Bombay Port Trust imposed with effect from 1st April 1956, a time-limit of two months from the date of payment of charges for receipt of applications, complete in all respects, for grant of remission of demurrage charges. The Chamber was duly intimated about this restriction on the time-limit for filing of claims for remission of demurrage charges and as desired by you the members of the Chamber were advised accordingly. The other organizations also, to which a reference was made by you in the matter, would have apprised their members of the position.

Even so, it would appear that a large number of importers were not aware of the exact position and therefore could not adhere to the reduced time-limit of two months for the purpose of submitting applications for remission of demurrage charges and were quite surprised to learn from the authorities recently that since their applications, complete in all respects, were not submitted within a period of two months from the date of the payment of the charges, the same could not be entertained. Several representations have been received in this regard from which it would appear that at the time when the importers concerned submitted their applications for remission of demurrage charges, they were *bona fide* not aware of the revised time-limit nor were they quite clear as to what was required of them in order to make their applications complete in all respects. In many cases it would appear that the applications were made quite in time but were not accompanied by certain documents which in the view of the Port Trust would make such applications complete in all respects. Perhaps, if immediate steps were taken to apprise such applicants of the exact requirements after their applications were submitted, such importers would have had an opportunity to complete their applications quite within the time-limit of two months. However, it would appear that the action in rejecting the claims was not sufficiently prompt so that the applicants had no chance to re-submit their claims with the documents required within

the time-limit specified in the notice under question. Moreover, the notice in question has not indicated any specific documents which are required to be submitted along with the applications in order to enable such applications to be treated as complete in all respects. In these circumstances the rejection of applications for remission of demurrage charges on the ground that they were not submitted within the time-limit of two months, though technically correct, cannot be deemed to be fair to the parties concerned.

My Committee, therefore, request the Bombay Port Trust to be good enough to review the matter and as a special case permit such claims for remission of demurrage charges being deemed eligible for consideration and decision on the merits of each case.

*Letter No. T/DT-RR/8366 dated 22nd October 1957 from the  
Bombay Port Trust to Chamber.*

Reference is invited to this Office circular letter No. T/DT-RR/1775 dated 17th March 1956, stating that with effect from 1st April 1956 applications for remission of demurrage charges would not be entertained unless they are received, complete in all respects, within two months from the date of payment of the charges.

The question whether applications for remission of demurrage charges must necessarily be accompanied by the relative invoices has now been considered and it has been found that the processing of the claims can be initiated even when the relative invoices are not forwarded with the applications. It has, therefore, been decided, as a concession to the Trade, that applications for remission of demurrage charges, even if not accompanied by the relative invoices, should be entertained if received within the stipulated period of two months, provided they are complete in all other respects. I am, however, to make it clear that should a reference to the invoices be found essential, during the examination of the claims for purposes of verification, it will be incumbent on the applicants to furnish the invoices within a reasonable period when called upon to do so.

All pending applications will be disposed of in accordance with the above decision. It is requested that this may be brought to the notice of your constituents.

*Letter No. 2391 dated 7th November 1957 from Chamber to the Bombay Port Trust.*

I am desired to acknowledge the receipt of your letter No. T/DT-RR/8366 dated the 22nd ultimo on the subject mentioned above. My Committee have noted that it has now been decided that claims for the remission of demurrage charges could be submitted even in the absence of the relative invoices and that such claims would be duly considered if submitted within the stipulated period of two months, provided they are complete in all other respects.

While expressing satisfaction at this decision which is in the nature of a concession to the trade, they would like to refer to their earlier representation dated the 9th September on the above subject. They have pointed out therein that quite a number of applications for remission of demurrage charges were rejected on a technical consideration, that the same were not submitted within a period of two months from the date of the payment of the Port Trust charges complete in all respects. Now that the Port Trust has decided that it is not necessary to insist on the relevant invoices being submitted along with the applications for remission of demurrage charges my Committee feel that the benefit of this concessional treatment should be made available to all those applications which were submitted after the imposition of the time-limit and which were rejected on the technical consideration of not having been accompanied by relevant documents and any applications rejected previously, if submitted again, should be deemed to be eligible for reconsideration on merits, as otherwise importers whose claims come to be so rejected would be placed to avoidable difficulty and loss.

My Committee are sure that the Port Trust will have no difficulty in appreciating this position and agreeing to the suggestion contained herein.

In the meanwhile, as desired, the contents of the letter under reference are circulated to the Members of the Chamber for their information.

*Letter No. 2725 dated 19th December 1957 from Chamber to the Bombay Port Trust.*

I am desired to invite reference to your letter No. T/DT/RR/8366 dated the 22nd October and to this office

letter No. 2391 dated the 7th November 1957 on the above subject. As mentioned therein, the revised arrangements were brought to the notice of the Members of the Chamber. In this connection, a suggestion has been made to my Committee that in order to make the concession already granted by the Bombay Port Trust to be really helpful it would be necessary to extend the said concession so as to provide that applications for remission if submitted within the stipulated time would be entertained even if they are not accompanied not only by relevant invoices as provided for in the concession but also Port Trust chhapas.

I am desired to request you to kindly give this point also consideration along with the suggestion already made in their previous letter that the concession announced should be made applicable to claims for remission of demurrage charges which were rejected prior to the announcement of the concession due to non-compliance of the technical requirements in the matter.

## APPENDIX 6

### **Reduction in the Free Period for the purposes of Loading and Unloading of Wagons**

*Letter No. 918 dated 20th April 1957 from Chamber to the Ministry of Railways (Railway Board), Government of India.*

In an effort to ensure the maximum utilisation of Railways' resources in wagons, the Railway Board have decided upon certain measures designed to speed up the running of trains and to cut detentions to wagons in marshalling yards and elsewhere. As a step in that direction, the Railway Board has decided to reduce the free time allowed to the trade, wherever loading and unloading is required to be done by consignors and consignees, from 6 hours to 5 hours.

The Committee in this connection would like to recall their views expressed at the time of the decision to reduce the free period as not calculated to assist the realisation of the objectives of the administration in securing an earlier release of the wagons. They had cited the instance of a large number of wagons coming up for being unloaded at a particular place, one wagon after the other, and had pointed out that in such a case in spite of the best endeavour of the consignees there will be physical limitations to the extent to which the process of unloading could be speeded up.

There is another aspect of difficulty in being able to conform to the reduced free period. The consignors are expected to load the wagons allotted to them after the wagons have been actually placed. In many cases a single consignor would have to make arrangements for loading a number of wagons at a time. In order to be able to arrange loading of these wagons he has to make necessary arrangements for bringing the supplies to the loading centre from the godown or the factories where the goods to be consigned are lying. Naturally he would require sufficiently advance information as to when the wagons are going to be placed at his disposal. According to the present procedure it would appear that consignors are not able to have definite advance intimation about the wagons being allotted to them. It, therefore, becomes all the more difficult to complete the loading operations within the reduced free period.

I am, therefore, desired to request you to take this aspect into consideration and to issue necessary instructions with a view to ensure that consignors are afforded sufficiently advance time for making the necessary ancillary arrangements connected with the bringing of supplies to the sheds for being loaded into the wagons so that when the wagons are placed, the materials and goods are ready for being loaded. Such a course would considerably assist the work of completing the loading of the wagons during the free period.

## APPENDIX 7

### **Compensation for Claims preferred against Railways in respect of Loss or Damage of Goods consigned over Railways**

*Letter No. 1615 dated 25th July 1957 from Chamber to the Ministry of Railways (Railway Board), Government of India.*

The Committee of the Chamber have had occasions in the past to draw the attention of the authorities to the question of difficulties experienced by the members of the commercial community as a result of delay in the finalisation of claims in respect of loss or damage to goods consigned over the Railways. In their representations to the Railway Freight Structure Enquiry Committee, the Committee had touching upon this aspect made a strong plea that measures should be taken to improve the operational and administrative machinery, so as to minimise occasions for claims for loss or damage. They had

further submitted that such claims as arose should be settled expeditiously and that this task would be facilitated by the fixation of time-limit for settlement of claims and the institution of some form of non-official check on the working of the various claims offices.

Since then the Committee, off and on, continue to receive representations in regard to the delays experienced in the matter of getting the claims settled from various Railways. In some of the recent instances brought to their notice, there is noticeable tendency to delay the finalisation of the claims preferred against the Railway administrations and when suits in respect of such claims become time-barred, to repudiate the liability of the Railway administrations in respect of such claims. In many cases, in spite of the measures taken by the Ministry from time to time for seeing that the work is being expedited, there still continues to be delay in the finalisation of such claims. Very often the claims pertain to relatively small amounts, and the parties concerned naturally cannot be thinking in terms of taking legal action to have the same settled.

My Committee request, therefore, that Government will give sympathetic consideration to this aspect and issue necessary instructions firstly with a view to ensure that such claims as are preferred against the various Railway administrations are settled expeditiously, and secondly in such cases as remain pending for settlement for a period which would bring them within the purview of the provision of the Indian Limitation Act and thus legal proceedings in respect of the same would become barred, before a final decision repudiating the claims is taken and intimated to the parties, they should be referred to the Board for their consideration. My Committee feel sure that Government will give their early consideration to the matter.

*Letter No. TC-III/3016/57 dated 22nd August 1957 from the Railway Board to Chamber.*

With reference to your letter No. 1615 dated 25th July 1957, I am directed to state that instructions to the Railways already exist that they should not only sustain but also intensify their efforts to ensure expeditious disposal of claims cases. I am to add that as a result of various measures adopted by the Indian Railways, there has been a steady improvement in the average time taken in settling compensation claims which has been brought down to 51 days in 1955-56 as against 71 days in

1952-53. The matter is constantly under review with the object of effecting further improvements.

Regarding claims cases which have become time-barred for suit, Railways make a reference to the Railway Board when the claimants have been regularly pursuing the matter and the claims have become time-barred for suit not due to any laches on the part of the claimants.

It is suggested that specific cases be brought to the notice of the Railway Administrations concerned who will no doubt look into them and take suitable remedial action in the matter.

#### APPENDIX 8

##### **Delay in Issue of Railway Receipts at Wadi Bunder**

*Letter No. C.630.D/II-Pt.I dated 28th November 1957 from the Central Railway to Chamber.*

Detailed enquiries have been made in the matter of delay in the issue of R/R.s in the cases referred to in your above (a Note previously furnished by the Chamber), and I enclose herewith\* a statement showing the position in each case. It will be noticed therefrom that the delays occurred mainly on account of reasons as indicated below:

- (a) Delay in taking the goods to scales;
- (b) Delay in rating;
- (c) Misplacement of forwarding notes by the staff.

It may be added that the particulars furnished against items 7, 12, 15, 18 and 21 are not correct and hence no investigations could be made. Further, in the remaining cases, there has been no delay since the R/R.s were made available for delivery to the parties within the stipulated time.

2. On further analysis, it is noticed that these incidents were few and far between, i.e. the number of cases of delay under item (a) was one in the month of March and the other in April. Similarly, the instances of late issue of R/R.s against item (b) were spread over a period of 3 months, viz. 1 in March, 3 in April and 2 in May 1957.

3. In regard to causes of delay, it may be stated that the time lag in acceptance is purely attributable to inadequate

\* Not enclosed.

wagon supply leading to fresh acceptance being held up as unless the accepted goods are cleared, fresh goods cannot be taken on the scales. Secondly, as you are aware, about 4,000 invoices are issued at Wadi Bunder daily and it is quite natural there will be a few cases of doubt regarding rating, which are held up for clarification.

4. As regards misplacement of Forwarding Notes, the staff concerned are being taken up with suitably and instructions issued to avoid a recurrence.

The wagon supply position at Wadi Bunder has considerably improved during the last few weeks due to which delays in acceptance have been reduced considerably; consequently there are no delays now in the issue of R/R.s and even if these do occur, they do not exceed 48 hrs. Similarly, the allotments under the textile panel are being regulated by the Textile Commissioner in consultation with the Goods Superintendent, Wadi Bunder, keeping in view the prospects of clearance of the traffic. As a result thereof, the delays that used to occur in the issue of R/R.s particularly in respect of textile traffic have considerably reduced. I trust that there are now no complaints from your constituents of the delays in the issue of R/R.s.

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## II. FINANCE, TARIFF AND TAXATION

### APPENDIX 9

#### **Budget Proposals of the Government of India for the year 1957-58**

The Committee of the Indian Merchants' Chamber have issued the following statement on the Budget of the Government of India for the year 1957-58:

The Committee of the Indian Merchants' Chamber have given their careful consideration to the Budget proposals presented to Parliament by the Finance Minister on the 15th May 1957.

1. The Committee of the Chamber consider it both remarkable and significant that the Chamber had, since its existence for the last fifty years, never been called upon to examine the serious implications of a bold and unprecedented budget, imposing at a stretch, a very heavy burden of new or additional taxation on the country amounting to Rs. 93 crores per annum. The magnitude of the overall burden will be understood when it is realised that the additional taxation, since the starting of the Second Plan period, has been of the order of nearly Rs. 175 crores. No one, anxious to see the creation of a real Welfare State in India, can ignore this vital fact while examining the budget presented to the Parliament by the Finance Minister on the 15th May 1957.

2. The Committee note that "the main theme and the dominant concern" of the Finance Minister in the framing of his budget is to raise the finance necessary for the success of the Second Plan. This fundamental driving power has also made him utilise the opportunity "for imparting a new turn to our tax structure towards greater efficiency and equity". Time alone can show how far and to what extent the ideals of efficiency and equity will be reached and attained.

3. The Committee would, however, like to reiterate that the Chamber has always expressed its readiness to extend its willing and whole-hearted co-operation to Government in its efforts for securing the finance required for the successful execution of the Plan. They had, at the same time, urged that the measures adopted do not cause such strains and stresses on the economic and social life of the country as would defeat the larger objective of all concerned, viz. to raise the standards of

living of the people and do not lead to the creation of such conditions as would make it impossible for savings to accumulate and thus discourage the growth of investments and capital formation. The Committee feel that the adverse effect of the proposals in the budget, as a whole, on the existing standards of life—not to say anything about raising the present standards—does not seem to have been fully appreciated by the Finance Minister; they are convinced that these proposals cannot generate new “incentive for larger earnings and more savings” indicated as an important justification by the Finance Minister for their imposition.

4. The interim Budget presented by the Finance Minister in March last showed an overall deficit of Rs. 365 crores. In view of the declared intentions of the Finance Minister to curtail the extent of deficit financing to meet the budgetary gap, some increase in taxation was expected and was unavoidable. While referring to the prevailing economic situation in the country the Finance Minister has drawn pointed attention to two main aspects, viz. the growing inflationary pressure and the difficult balance of payments position. In regard to inflation he has himself agreed that the decline in agricultural production was one of the main factors contributing to the same. The disquieting food situation and the rise in prices of cereals in certain parts of the country underline the need for taking more energetic measures to augment agricultural production in the country. Sufficiency in agricultural production is essential to strengthen the base for the rapid and all-round economic development, and towards that end it is heartening to note that the authorities have realised the importance of improving agricultural production, as otherwise any serious lag or shortage in food supplies will seriously jeopardize the implementation of the Plan according to schedule.

5. The Committee do not propose to discuss the four criteria which, as stated by the Finance Minister, have guided him in framing his fiscal policy. It may be that the existing conditions in the country and the increasing requirements of the Plan have led him to adopt these criteria. While laying down “restraining of consumption over a fairly wide field” as one of the criteria it is necessary to remember that in an under-developed economy, there is an imperative need to raise the standard of living by increasing the consumption standards from the present sub-marginal level. This fact of a pent up demand for basic necessities of life sets serious limitations to “restraining

of consumption" as being accepted as a basic objective of the fiscal policy of the country.

6. The Committee would, however, like to invite the earnest attention of Government to the nature and extent of the new policy which they have adopted, of financing capital expenditure out of revenues. When the Second Plan was published it was stated that they would have to raise Rs. 450 crores, by way of additional taxation (plus Rs. 350 crores at existing —1955-1956—rates of taxation) to reach the targets laid down in the Plan. The State Governments were expected to raise between them a total of Rs. 225 crores and an equal amount was to be raised by the Centre. Since the Plan has begun, the additional taxation of the Centre alone has been of the order of Rs. 175 crores. This would mean financing, by way of additional taxation, to the tune of Rs. 875 crores during the period of the Plan from the Centre alone. This does not cover the taxation to be levied by the States. It is difficult to say whether any new burdens, by way of fresh or additional taxation, will be imposed during the remaining period of the Plan or not. The Finance Minister, however, has made it clear that there will undoubtedly have to be some adjustment in the structure from year to year. The total cost of the Plan in the public sector has been raised from Rs. 4,800 to Rs. 5,600 crores. The Finance Minister has emphasized the need for reducing the amount of deficit financing. The original gap of Rs. 400 crores remains uncovered. Whatever be the magnitude of the Plan, its ultimate implementation will depend upon the capacity of the economy to generate the rate of savings and the capital formation so necessary to build up that volume of investment. This is the broad and general approach of the Committee towards the consideration of the proposals embodied in the budget. They would now like to offer their observations on some of the proposals.

7. The increase in the rate of corporate taxation as well as the proposed new tax on wealth of companies will not be conducive to the objective of maintaining and preserving incentives for larger earnings and more savings. It is true that there is reduction in the burden of direct taxation of individuals and Hindu undivided families. However, the imposition of the tax on wealth, the rates whereof compare more or less with those suggested by Prof. Nicholas Kaldor, is not accompanied by a corresponding reduction in the rates of the existing measures of direct taxation. It is pertinent to mention here that Prof.

Kaldor himself has suggested a reduction in existing direct taxation to 42%. If the incentives were to continue for the purpose of providing opportunities for better capital formation, the same could be achieved only through investment in joint stock enterprise which, in its turn, would depend on the capacity of the individual. It is, therefore, necessary that the Finance Minister should reconsider the matter and give further relief in respect of direct taxation on individuals and Hindu undivided families.

8. While the relief in respect of earned income should be welcome, as the same is calculated to serve as an incentive to individual savings, at the same time, the burden of corporate taxation should be lowered, instead of being stepped up. From that point of view, if the penal tax on bonus shares was to be increased, it was reasonable to expect that tax on excess dividend distribution should have been completely abolished. Taxation both on excess dividends and on bonus issues simultaneously is difficult to justify in the context of the present over-riding need for providing incentives to corporate enterprise.

9. It is gratifying to note that the compulsory distribution by companies engaged in industries and coming within the purview of Section 23A is now lowered to 45%. The benefit resulting from the reduction in distribution percentage to 45% in the case of industrial concerns would stand nullified by the imposition of a Wealth Tax on companies. The Board of Referees, functioning under the Section, did not function in a manner in which it was expected to function. It is, therefore, proper that the proceedings before the Commissioner of Income-tax and the Board of Referees in respect of manufacturing companies are now abolished.

10. As regards the proposed tax on wealth, it is doubtful whether such a levy can be justified particularly when we are all anxious to secure the rapid economic development of the country. It is pertinent to observe that no distinction has been made between productive wealth and unproductive wealth and such a distinction ought to have been made in all fairness. Moreover, the Committee are entirely opposed to this levy on corporate enterprise. In the case of new companies, while under Section 15C of the Indian Income-tax Act, exemption from tax is granted, and they would not have to pay any amount by way of income-tax initially for a number of years, they would, at the same time, be required to pay every year Wealth Tax, irrespective of their net earning position. As it is, equity capi-

tal has been shy as a result of various tax imposts affecting corporate enterprise and wealth tax on companies, in addition to impeding the formation of new companies, will only act as a serious dis-incentive in the case of existing ones. Further, companies having no income or even incurring losses would also be liable to this tax. Taking into account the provision enabling a carry-over of losses for the purpose of seeing that capital depletion does not take place, as a result of fiscal measures, a tax of this type on companies is not called for and is most inappropriate. It should be pointed out that in Sweden, where a similar tax is obtaining, where the total assessed income is less than  $3\frac{1}{2}\%$  of the capital assets, capital tax is not levied on that part of the assets which is over 30 times the total assessed income from all sources. In view of the need for nursing corporate enterprise, the levy on wealth of companies is not justified and the Committee of the Chamber would, therefore, strongly urge deletion of the same.

11. There are, however, two considerations of vital importance which would convince an impartial thinker that the levy of wealth tax on the wealth of the corporate undertakings will lead to extremely serious consequences. The wealth of a corporation comes from the investments made by the shareholders in the undertakings. In the first place, these shareholders will have to pay a wealth tax on that part of the wealth of corporate undertakings, which they have invested in those corporations. In the second place, the corporation will pay again the wealth tax on the same asset. The Government would be having the wealth tax paid to them twice on the same asset, a position which is not equitable and fair. Further, it should not be forgotten that if the country has to maintain the export drive and if the industries participating in the international sphere have to preserve their place and position in world market, their competitive capacity should not be impaired. In addition, at a time when the country is anxious to attract investment of foreign capital, the proposed tax on wealth of companies will act as a serious deterrent to intending investors from abroad. The Committee are, no doubt, aware of the provision not to duplicate the Wealth Tax in respect of private companies and the Finance Minister desires to extend it to Section 23A Companies, but such an exemption, in the opinion of the Committee, should extend to all companies.

12. Coming to the proposal regarding expenditure tax, the Committee desire to point out that such a measure has no parallel in the tax system of any country. They are definitely

of the opinion that before any proposal for such a revolutionary measure can even be considered, the country should be given the fullest possible opportunity to examine its implications and the difficulties involved in practical application. Prof. Kaldor, with whom the idea originated, has himself admitted that it would be administratively more difficult to handle an expenditure tax than the income-tax. Even in advanced countries like the U.S.A., the proposal for imposition of expenditure tax, although considered, was ultimately given up on account of the administrative difficulties involved. It would be interesting to note what Prof. Kaldor has to say in this regard. He has observed:

"It should be clear that it would be impossible to think of replacing the present system with an expenditure tax system at one stroke, so to speak. There is well over a hundred years' accumulated experience in administering the income-tax. There is no such experience concerning the expenditure tax . . . and it is not really possible to foretell with any confidence how difficult its administration would prove in practice."

The increase in the rate of tax over Rs. 60,000 is 4% to 8% and this rate for the higher income slabs giving the effective rate of 77% to 84% already provides for a higher levy and this factor automatically takes cognisance of the extra spending factor. Such a levy, therefore, nearly approximates to an expenditure tax unless it is assumed that in rare cases persons with higher incomes spend less than those with lower incomes in these slabs. The proposal to levy the expenditure tax on assessee whose income is Rs. 60,000 or more, leaving persons below that income to spend in any manner and to any extent they like, creates an anomalous position.

Apart from any other consideration, a very pertinent issue has to be taken into account in respect of the expenditure tax. At present, the Department adds back a substantial amount if drawings of an assessee are not commensurate with his status in life. With the imposition of an expenditure tax, a sort of a facility would be granted to those persons who have moneys outside their books to be utilised with a plea that with the imposition of an Expenditure Tax, the expenditure as such has been curtailed. A measure of this nature is, therefore, bound to put a premium on assessees, who do not have their affairs straight. This very factor should enable a reconsideration of the question whether a tax of this nature is at all advisable. Even the Taxation Enquiry Commission has not examined this

revolutionary suggestion. In view, therefore, of the absence of such a tax in any part of the world, there is greater reason that the country should be given the fullest possible opportunity of examining its merits as well as its serious consequences before the measure is sought to be brought for the consideration of Parliament. The Committee are, therefore, convinced that the path of wisdom and statesmanship lies in dropping it altogether.

13. The all-round increase in indirect taxation seems to be based on the third criterion postulated by the Finance Minister, viz. restraining of consumption over a fairly wide field so as to keep in check domestic inflationary pressures and to release the resources for investment. It is, however, necessary to see whether the imposition of extra burden in the shape of taxation does not result in pushing up the price structure and consequently the cost of living. In the considered opinion of the Committee of the Chamber, the cumulative incidence of a number of increases in indirect taxes will result in pushing up the cost of living and will have also its impact on the wage structure. It is also a question whether taxation measures by themselves are anti-inflationary. There cannot be any guarantee that the revenue from such taxation will necessarily be utilised for developmental purposes and will not be absorbed by non-developmental expenditure.

14. The Finance Minister has also viewed the levy of excise duties partly as a measure of giving a fillip to the export trade. While the Committee of the Chamber appreciate the need for stimulation of exports in all possible ways, it is a moot point whether the increase in excise duties can, by itself, significantly help to achieve that object.

15. The Committee of the Chamber have from time to time stressed the need for keeping the non-developmental expenditure to the minimum level possible, so as to make increasing resources available for developmental purposes. In view of the continuously rising level of public expenditure, there has been a growing feeling that the revenues raised by increased or additional taxation are absorbed to a large extent in expenditure on administration and non-developmental expenditure. It is gratifying to note that Government have already appointed a high powered Committee to go into this aspect thoroughly. It is to be hoped that as a result of the recommendations that may be made by this Committee, it will be possible for Government to take concrete action in the direction of cutting down the

level of civil expenditure to the minimum extent possible and avoiding wasteful expenditure.

16. The Committee would like to point out that the overall burden of increased taxation on the community is such as is beyond its capacity to bear. In this context, the Committee would reiterate their considered opinion that a taxation measure of this magnitude could be avoided to a certain extent by a rational phasing of the Plan. Even though it may not be practicable to phase the Plan as a whole, especially with regard to the main developmental projects, there appears to be scope for such phasing in respect of other schemes and projects, without seriously affecting the tempo of our economic progress. Even the Finance Minister is conscious of the necessity for such re-phasing. He has stated "even if the Plan did not encounter difficulties in certain sectors—which it does—a re-phasing of it might be necessary in certain parts". Such a course would go a long way in spreading, if not reducing, the financial burden on the community as a whole. Another factor which should be prominently taken into consideration in the formulation of the fiscal policy is the income potential of the community. While the Committee of the Chamber would extend their whole-hearted co-operation to the Government in their efforts in the direction of the realisation of the objectives of the Plan, they would, at the same time, respectfully urge that the tax measures should be so regulated as to maintain, nurse and stimulate savings, both corporate and individual, instead of the same being utilised on a progressive basis to divert useful resources to the State only, crippling the resources at the disposal of the citizen. With the progressive implementation of the Plan and the consequent increase in the income potential of the country, as a whole, the revenue resources available to the State are also expected to be augmented, thus enabling the State to obtain the necessary resources for implementing the Plan without unduly straining the capacity of the individual to meet tax burdens.

17. The Committee would emphasize that the higher rates of excise on articles of daily consumption like sugar, tea, coffee, vegetable oils, tobacco and matches will inevitably result in raising their prices substantially, leading thereby to an increase in the cost of living and consequent demand for wage increases, that the levies on items like steel and cement will add materially to the capital cost of the Plan expenditure as also development expenditure in the private sector and that cumulatively the changes in direct taxation of the individual and companies will

have adverse effects on the incentive to work and save. The lowering of the tax-free slab from Rs. 4,200 to Rs. 3,000 will rope in a large number of the lower middle-class group who have been already subject to high cost of living consequent upon the various indirect levies. There is a legitimate ground for the apprehension that, if we do not hold the price line and the inflationary forces persist in pushing up the cost of living and consequently the cost structure of the industries, the same may as well result in nullifying the anticipated benefit from the rise in national income at the end of the Second Five-Year Plan.

18. In conclusion, the Committee are of the view that initiation of changes in tax structure as would make tax yield progressively more responsive to increased incomes and facilitate an orderly development of the economy with due regard to the social objective the country has adopted, would stand implemented only in theory, because the net result of changes being effected may ultimately be that the country gets diminishing returns and for the sole objective of not making the Plan flexible at all the very productive sources may get crippled. Some flexibility and adjustment in the Plan outlay may not matter particularly when foreign resources and supply of capital goods are not available to the country according to the estimates made. If this is done, a rational readjustment of the tax structure to make it less burdensome may not be difficult. The Committee regret to say that they cannot share the view of the Finance Minister that to acknowledge "that our present Plan is too ambitious would be a declaration of defeat in advance". To take the realistic view of our resources and to recognise the practical limitations in raising them to the extent we desire is the path of statesmanship and not a confession of failure.

*Speech of Shri G. P. Kapadia, Vice-President, at the Special General Meeting of the Members of the Chamber held on  
14th June 1957*

FRIENDS:

I have great pleasure in extending to you all a cordial welcome. As you are all aware, this Special General Meeting has been called with the object of eliciting the views and reactions of the members on the budget proposals of the Government of India for the year 1957-58. It is hardly necessary for me to say that some of the budget proposals are of a novel and extraordinary nature and, if implemented, are likely to produce far-reaching results on the economy of the country as a whole. The Committee of the Chamber, after careful consideration of the

proposals, had issued a statement to the press. Closely following this, an informal meeting of the representatives of the affiliated Associations of the Chamber was convened on 25th May 1957 to ascertain their views and reactions. However, the Committee felt that in view of the impact of the new taxation proposals a Special General Meeting of the Chamber be called to elicit the views of the members so that the views expressed at the meeting may enable the Committee to formulate and forward their comments and suggestions to Government in the form of a comprehensive memorandum.

2. Gentlemen, the Indian Merchants' Chamber has played a notable part in the economic life of the country and has made its own humble contribution by representing the nationalist aspirations particularly in the economic sphere in the pre-Independence days. On the attainment of Independence, it has all along expressed itself in full sympathy with the national effort for a planned programme of development. Let me take this opportunity of assuring the Government that the commercial community is inspired by the self-same aspirations for bringing about rapid industrialisation of the country and raising the standard of living of the people and towards the realisation of the objective, it is fully prepared to make its own contribution. The contribution already made is worthy of its traditions. However, as a result of their objective assessment of the economic situation and the plans and programmes formulated in the economic sphere, it becomes their imperative duty to say in a free and fearless manner as to what they feel honestly about the fiscal measures. As spokesmen of organised commerce and industry, it is incumbent upon us to present our considered point of view on the economic policy of the country and at the same time offer our co-operation in a constructive spirit.

3. As candidly stated by the Finance Minister in his Budget speech our Plan has run into difficulties. The stresses and strains in the economy have already become visible in the very first year of the Second Plan. We are faced with an acute position in respect of our foreign exchange resources. The agricultural situation causes great concern. The prices have been showing an upward trend followed by a demand for wage increase. All these indicators point to the difficulties with which the country is confronted. It is against this background that the problem of the implementation of the Second Five-Year Plan and finding of adequate resources for the same has to be viewed.

4. Since the starting of the Second Plan, the magnitude of the overall burden of additional taxation has been of the order of Rs. 175 crores, including the new imposts of Rs. 93 crores proposed in the budget which are subject to certain minor concessions already announced. The problem facing the country is whether it has the capacity to bear this abnormal burden without producing serious dislocation in the economy and defeating the very object in view. We have also to consider the more fundamental question whether in view of the numerous burdens imposed on the citizens, they will have adequate resources left for making the required contribution to the development of the economy.

5. You are aware of the context in which the budget proposals have been framed, viz. the problem of financing the rather bold and ambitious Second Five-Year Plan which is of the overall magnitude now of over Rs. 7,500 crores. Out of this the public sector alone will require, instead of Rs. 4,800 crores, an investment of the order of Rs. 5,400 crores consequent upon certain new additions and a rise in the cost of the Plan due to increase in prices. Taking the overall resources position as pointed out by the Finance Minister, a gap of Rs. 850 crores was already to be made up by taxation. It was originally expected that Rs. 1,200 crores would be covered by deficit financing. It was subsequently felt that Rs. 400 crores more would be required if the Plan was to be implemented in full. It was, however, realised that the economy could not sustain deficit financing of the magnitude of Rs. 1,200 crores without involving the serious inflationary consequences and as such the target for the same has now been reduced to Rs. 800 crores.

6. Making due allowance for the possible increase in the revenues and the fulfilment by the States of their contributions, the resources position may still present difficulties. There would be a substantial gap of more than Rs. 500 crores and if our Defence expenditure is to increase on the scale on which it has to grow for national reasons, yet further resources may have to be found.

7. Since the early stages of the consideration of the Plan frame, which became the basis for the formulation of the Five-Year Plan, the Committee of the Chamber has pointed out that the real resources available to the country were not adequate for launching upon a plan of this magnitude. When representations were made to the Taxation Enquiry Commission, pointed attention was drawn by commercial Chambers

and industrial interests to the effect that the country would not be able to bear the burden of taxation as also of deficit financing on a large scale. A realistic approach in the matter was pleaded for and this has been the basis of approach so far as the Chamber is concerned.

8. There is a tendency to attempt a comparison with certain industrially advanced countries in regard to the question of the rate of savings and capital formation. The problems of a country which launches upon a policy of rapid industrialisation from an under-developed economy are quite different from the problems of countries which have already so advanced. The industrial advancement in such countries has been the result of a long process of evolution and such process has been prefaced by fiscal measures which gave fullest scope for incentives to save and to plough back profits into the industry itself and to provide for proper rehabilitation. Taking into consideration our Plan targets, the original figure for the public sector was Rs. 4,800 crores which, as I have stated already, has been stepped up to Rs. 5,400 crores. The figure of Rs. 4,800 crores was determined obviously on the basis of the capacity of the country to bear the burden and if as a result of increase in prices the cost of the Plan increases, the obvious remedy would lie in confining the layout to more essential projects. After all, the strain and stress on the tax-paying public of the country should not be of such a magnitude as would create a feeling of want of confidence and a feeling of utter disappointment.

9. Again in making the layout for the Plan no consideration has been shown for the income potential as a result of the huge investment and in case such yield is taken at the low rate of 5 per cent, it would give an annual yield of Rs. 240 crores. This factor itself should enable a proper readjustment of the budget estimates and after taking due cognizance of such income potential the need for resort to further and heavier taxation may not exist. If, on the other hand, the Plan is not expected to produce the required result in the shape of the income potential, to that extent the resources raised would *ipso facto* have gone into expenditure of a non-developmental character to a corresponding extent. In the speech made by the Finance Minister in the Rajya Sabha on the 23rd of May 1957 in reply to the general discussion on Budget he has stated that what he did mention when he said in his speech about the phasing of the Plan was not cutting down the Plan. As a result of the difficulty in obtaining capital goods and the shortfall in the foreign exchange resources the fulfilment of certain projects is

bound to be delayed and by mere process of circumstantial working a readjustment would take place in course of time. It should not be as if whatever the position with regard to the obtaining of capital goods or the foreign exchange resources the Plan fulfilment has to be made somehow or the other not only to the extent of the previous layout of Rs. 4,800 crores but to the extent of the higher figure of Rs. 5,400 crores.

10. As regards the problem of foreign exchange, difficulties have presented but even in respect of this matter may I with great humility point out that no country with any type of economic structure or layout can think in terms of producing or creating all the foreign exchange that is needed for the industrialisation of the country which will give fruits for decades to come in a compass of five years? Resort must have to be made on a well regulated borrowing programme and on credit terms as also the participation of the industrially advanced countries in the setting up of industries in the country. Such a process involves a rational readjustment of the budget layout and the process of finding out all the resources for the capital layout of the country from the revenue resources cannot be a process which can be justified.

11. In the light of the observations which I have already made and on the economic position being reviewed and a proper readjustment and layout being made of the Plan fulfilment and the budgeting of the relevant items, the need for resort to heavy taxation may not exist. I would therefore make an earnest appeal for a realistic approach and a reasoned consideration of the analysis so made.

12. In this context the question of securing maximum possible economy and avoidance of waste in public expenditure assumes great importance. There is the need for keeping non-developmental expenditure to the minimum level possible so as to make increasing resources available for development purposes. There is a growing feeling that revenues raised by increased or additional taxation are absorbed to a considerable extent in expenditure on administration and expenditure of a non-development character. It is gratifying to note that our Prime Minister has taken serious note of this aspect and has asked for effecting necessary economy in Governmental expenditure wherever possible. It is also heartening to note that the Finance Minister has actually introduced a scheme to achieve the objective in view. It is legitimate to hope that as a result of these measures Government will prevent wasteful public ex-

penditure both in the administrative working and the expanding Public Sector.

13. Friends, repeated assurances have been given that the private sector has been assigned an honourable place and is expected to play an important role in the process of the speedy industrialisation of the country, but with heavier and more burdensome taxes, high and inflexible labour costs, restrictions on managerial discretion, excessive restraints and regulations on business, increasing displacement of normal trade channels by the operations of the State Trading Corporations, the position of the citizens who are determined to play their role in the industrialisation of the country has become really very difficult. It may be that with the heavier and additional taxation corporate enterprise in the country may find it difficult even to function properly, let alone the question of incentives to save and invest being provided. The new taxes particularly the Wealth Tax on companies and the increased burden of corporate taxation are bound to act as definite disincentives. These new impositions have given a rude shock to the capital market and have shattered the confidence of the investors. The value of equity holdings has fallen by about 30 per cent during the last few months and the accumulated savings of years and years together have got this impact of corporate taxation and as a result thereof the equity holders have been subjected to an enormous loss. At a time when there is the fullest need for nursing corporate enterprise and for encouraging it, measures of this nature have created a very difficult position, serious repercussions of which are bound to be reflected in course of time and the very springs of capital formation, maintenance and rehabilitation are in the process of getting dried up.

14. The Finance Minister in his Budget speech made on the 15th May 1957, while presenting the Budget for 1957-58, said that his proposals in respect of company taxation were designed not merely to increase revenues but also on balance to encourage the ploughing back of profits through a check of dividend distribution. These measures, he further stated, were not intended to curtail genuine investment in the private sector though it would not be unreasonable to assume that a slight slowing down for a short period will not in the present circumstances be undesirable. If circumstances compel this observation, should not the commercial and industrial community with all humility say that circumstances also in the same manner demand a rational re-phasing of the Plan so that extraordinary burdens on the citizens' sector are avoided? The Finance

Minister also stated that he wished to retain the bias in the tax structure in favour of corporate investment and in that context he has left untouched the existing liberal depreciation allowances and the system of development rebates. If the bias in favour of corporate investment is to be retained, it is imperative that the burden on corporate enterprise should be left at the minimum.

15. A wealth tax on companies is a tax on productive capital and the imposition of such a tax will not only divert productive resources from the citizens' sector to the State sector, but it will also act as a damper on corporate investment as well because an unnecessary and extraordinary burden will have been placed on such enterprise when it needs all encouragement for a proper ploughing back of profits, the retention of such profits and the utilisation thereof for the industrial expansion of India. A Wealth Tax on companies is sought to be justified on the ground that such a tax obtains in certain European countries. It should not be forgotten that India is a sub-continent on the threshold of industrialisation while the countries specified have different problems to face and their economies are of a different nature. These countries have passed through the phase of industrial revolution already. In this connection the basic rates have unfortunately not been correctly stated. For example, for Switzerland the rate is stated to be  $\frac{3}{4}$  per cent for domestic companies but the rate of such capital tax on all capital owned is .05 to .35 per cent in case of individuals, trust funds or associations' entire estate or assets, and in respect of corporations there is a flat property tax of .075 per cent on the amount of capital and reserves as a Federal levy, there being an additional Cantonal Tax on capital and reserves which varies from .05 per cent to .2 per cent. In respect of Finland, there is no tax on invested capital but there is a Real Estate Tax which varies from 0.1 per cent to 2 per cent for an individual on type and location of property and 1 per cent for corporations. For Norway, there is a State Capital Tax on the net worth which is defined as assets of the Company at their book values, and the rate varies from 0.2 per cent for domestic companies to 0.7 per cent for companies domiciled abroad but no tax is levied if the net worth is less than 5,000 Norwegian kroner (about Rs. 3,500). In Sweden, too, such tax is payable on the net amount of all capital owned except furniture and articles of domestic equipment used in the home. This provision appears to have been confused at one relating to domestic companies. The rates graduate from 0.5 per cent to 1.8

per cent, the highest rate obtaining for a net worth of about Rs. 9,50,000 but there is a stipulation to the effect that in case the total assessed income from all sources is less than  $3\frac{1}{2}$  per cent of capital assets, then the capital assets tax is not levied on that part of the assets which is over 30 times the total assessed income from all sources.

16. Friends, this novel levy is being attempted on the suggestion of Professor Kaldor; but Professor Kaldor's suggestion for reducing the rates of personal taxation to 45 per cent does not stand implemented. It may be that in course of time an attempt may be made to reduce the personal rates of taxation to yet lower levels but in the present context of things and with the rates remaining as high as 77 per cent for earned income and 84 per cent for unearned income at the highest slabs the justification for the imposition of a Wealth Tax on productive capital cannot be made out. If at all, there may be some justification for imposing a Wealth Tax on unproductive capital and a tax gathering in respect of such unproductive capital would remain a problematic figure. Again, with regard to the equity holdings, the same form a very important part of the economic fabric of the country and as such they would have to be treated as productive capital. And as I have already stated, a tax on productive capital is nothing but a diversion of the resources, i.e. productive resources from the citizens to the State and it is a question whether such a diversion will bring better results. It may be that such a diversion may have quite a contrary effect of depleting the citizens' resources and not bringing about the same measure of gain in the State sector.

17. Another important effect is the one relating to duplication of tax by having a levy through the company and again on individuals and families. In this process, the equity holder who is himself not liable also pays and the holder who is subject to the Wealth Tax pays twice. This anomalous position requires a definite consideration and adjustment. It is very disappointing to note that even in respect of substantive provisions of the Wealth Tax Bill the discretion is proposed to be left with the assessing authorities to accept the Balance Sheet values. The provision in this behalf must be specific and the valuation need not go beyond the book values. I am making these observations with a view to point out the duplication, but I would again say that the Wealth Tax on companies has no justification whatsoever, being a tax on productive enterprise.

18. It is true that the rates for the excess distribution of dividends have been reduced, but the rate stands at 30 per cent for companies making a distribution of over 18 per cent of the paid-up capital with the result that in respect of such companies the total burden would be as high as 81.5 per cent. If the bias is to be in favour of corporate investment, there is no justification for retaining the bonus issue tax. The ploughing back ought to be there and for such ploughing back if excess distribution has to be penalised, there is all the more reason for the total abolition of the tax on bonus issues. If and when the bias turns in favour of individual saving, the taxing of bonus issues may be considered on merit but in the present context of things such a levy has no justification and when the bias shapes for individual savings, the tax for excess dividends can have no justification. The simultaneous levy of a tax on excess distribution and on the bonus issue is a contradiction in terms and such a levy cannot be reasoned out in any manner.

19. The introduction of a totally novel measure like the Expenditure Tax has no parallel in the tax system of any country. Before such a revolutionary measure could even be thought of, the country should have been given in all fairness the fullest possible opportunity to examine its implications and the difficulties involved in practical application. Even the author of this measure has himself admitted that it is more difficult to handle an Expenditure Tax. Even advanced countries like the U.S.A. have given up the imposition of such a levy owing to insurmountable administrative difficulties involved. Such an impost opens out a wide door for tax evaders to make use of their ill-gotten gains and such tax is bound to put a premium on dishonesty. Again, the method of imposition is of a discriminatory nature inasmuch as only those persons who have income exceeding Rs. 60,000 are likely to come in within its purview. On a practical consideration even the measure cannot produce effective results. The number of assessees according to the last available C.B.R. Report with income exceeding Rs. 60,000 is only 6,330 (individuals and Hindu undivided families) and excluding the number of cases which would not produce effective tax revenue, i.e. income ranges from Rs. 60,000 to Rs. 1,00,000 on the basis of the allowance of Rs. 24,000 plus Rs. 10,000 for 2 children, the number gets reduced to bare, 1,200 and for such a number the collection may not be substantial.

20. Apart from this aspect, a measure like this takes little cognisance of the social conditions in India where for generations together, the idea of a moral obligation towards relatives for

supporting them if they are poor, ill, or without sufficient means has existed. By sheer process of legislation this healthy social fabric would stand shattered and a compulsory collection would stand imposed by legislation on such persons. The provisions have been drafted in a very unsatisfactory manner and are bound to create practical difficulties in the interpretation of what is expenditure and what is not, and in fact an item like Jewellery which is expected to be treated as wealth for the purposes of Wealth Tax is at the same time attempted to be treated as an item of expenditure for the purposes of the Expenditure Tax. As it is, with an imposition of prohibitive duties on luxury articles, the collection in a concealed form from the higher income groups already obtains and it is but necessary that in view of the social structure a revolutionary measure of this nature should not be attempted particularly in the Planning period. It is to be hoped that Government will see its way to drop the measure altogether. I would specially like to mention that the attempt on the part of the Finance Minister to lower the taxable minimum and thereby roping in of a very large number of assessees including small traders and businessmen, would place a greater burden on a section of the people whose income cannot be said to have risen to any appreciable extent. Besides, this is likely to constitute a great source of harassment, especially to small traders who will be called upon to comply with the various provisions of the Income-tax law. In the process of broadening the base of the tax structure, there has been an all-round increase in indirect taxation. We are indeed thankful for the concessions subsequently announced in respect of some of the items of daily necessities. However, at a time when the cost of living has already gone up by 14 per cent and the real income of the people has perceptibly suffered to that extent, care will have to be taken to see that the cost of living does not impinge heavily on the people.

21. Friends, having referred to the harsh aspects of the Budget, let me also make a reference to some of the relieving features of the Budget. These are—

- (a) A reduction in the personal rates of taxation;
- (b) A relief for earned income both for the purposes of income-tax and super-tax which obtains at all ranges of income upto Rs. 35,000 and at ranges exceeding an income of Rs. 1,00,000;
- (c) A welcome change in the provisions of Sec. 23A whereby industrial concerns need not distribute beyond 45 per

cent—a measure which may go a long way in nursing corporate enterprise.

- (d) Reduction in the rates of super-tax for inter-corporate dividends which were 20 per cent for foreign companies and 17 per cent for Indian companies to a uniform rate of 10 per cent—a measure which would be a definite incentive to investment of foreign capital in India.

In this connection, I would like to make a specific mention of the income earners from dividends ranging between Rs. 35,000 and Rs. 1,00,000 who pay at a higher rate than those paying in respect of other ranges. Dividend income is the produce of equity capital which is the backbone of corporate enterprise and the equity holders require a more sympathetic consideration or even a special consideration during the planning period when equity capital is so badly needed. It would, therefore, be a good measure indeed if the dividend income which has so far been treated as unearned income is treated as earned income.

22. Friends, I thank you very much for the very patient hearing you have given me. We are all bewildered by the total impact of the new proposals and I would now invite members to express their views in a frank and free manner. The Chamber has historical traditions and it has always stood for a constructive outlook and approach. Let us, therefore, deliberate in a concerted manner so as to enable your Committee to present a strong case on behalf of the commercial and industrial community to the Government in the shape of a comprehensive memorandum. Our country at the present moment is passing through a period of crisis and we as an integral part thereof have also to pass through an acid test and let us hope and pray that we shall have the strength to face the present position. To my mind, it should not be difficult to have the difficulty resolved, and I rely on a significant observation of the Finance Minister in his Budget speech. He stated that in effect he has outlined the tax structure for the Plan period and that there would undoubtedly have to be some adjustments in this structure from year to year, but he expected that these adjustments would be relatively small and of marginal character. In the light of these observations we should not only expect that there would be no further taxation, but we can seek a categorical assurance to that effect and at the same time make an attempt to have substantial modifications made in the present proposals by seeking the total dropping of the Expenditure Tax bill, the dropping of the Wealth Tax on companies or at least a very substantial modification resulting in a much lesser levy on the basis of

book values only avoiding duplication of such levy, the elimination of the tax on bonus issues, and the treatment of dividends as earned income. I do hope that the Finance Minister will take full cognizance of the feelings of the commercial and industrial community and resolve the matter in a spirit of understanding. Only by doing this the State and the citizens can work with full confidence and a full measure of hope and march hand in hand to realise to the fullest extent the aspirations of independent India.

*Letter No. 1500 dated 11th July 1957 from Chamber to the Ministry of Finance, Government of India.*

**Re: The Finance (No. 2) Bill, 1957, The Wealth Tax Bill, 1957, and The Expenditure Tax Bill, 1957**

The Committee of the Indian Merchants' Chamber have given their careful and detailed consideration to the above Bills introduced in the Lok Sabha on the 15th May 1957 for giving effect to the financial proposals contained in the Budget of the Government of India for the year 1957-58, and I am desired to forward to Government hereby the views and observations of the Committee on the Taxation Proposals as also on certain provisions of the Bills.

In a statement issued to the press shortly after the announcement of the Budget Proposals, the Committee of the Chamber have given expression to their feelings in regard to the serious and far-reaching implications of the bold and unprecedented Budget, imposing at a stretch a very heavy burden of new or additional taxation on the country amounting to Rs. 93 crores during the year, excluding a further burden of nearly Rs. 14 crores, by way of tax on passenger fares. While reiterating their willingness to extend their wholehearted co-operation to Government in their efforts for the successful execution of the Second Five-Year Plan, they had mentioned that, whatever be the magnitude of the Plan, its ultimate implementation would depend upon the capacity of the economy to generate the rate of savings and the capital formation so essential to build up the volume of investment envisaged under the Plan. My Committee had pointed out therein that additional taxation, which was imposed within a period of fifteen months since the beginning of the Second Plan had reached the colossal sum of Rs. 188 crores which will constitute the additional annual burden of taxation for the coming years. They had also urged that the overall burden of increased taxation on the community was such as was

beyond its capacity to bear and had also emphasized that the adverse effects of the proposals in the budget as a whole, on the existing standards of living, not to say anything about the rise in the existing standards, do not seem to have been fully assessed by the Finance Minister. While extending their full co-operation to Government in their efforts to see the Plan through subject to the possibility of raising the necessary resources in the direction of the realisation of the objectives of the Plan, they had at the same time respectfully urged that the taxation measures should be so regulated as to maintain, nurse and stimulate savings, both corporate and individual, instead of the same being used on a progressive scale to divert useful resources to the public sector only, crippling in the process the resources at the disposal of the private sector.

The Budget Proposals have been framed in the context of the problem of financing the rather bold and ambitious Second Plan, which is of the overall magnitude now of Rs. 7,700 crores. Out of this, the public sector alone will require, instead of Rs. 4,800 crores as originally estimated, an investment of the order of Rs. 5,400 crores, consequent upon certain new additions and a rise in the cost of the Plan due to increase in prices. In the overall resources indicated in the Plan, Rs. 350 crores were to be obtained from current surpluses and Rs. 450 crores were to be raised by new and additional taxation—Rs. 225 crores by the Centre and an equal amount by the States. Rs. 1,200 crores were to be secured by Borrowing and an equal amount was to be found by deficit financing. Rs. 800 crores were to be obtained from foreign-aid and Rs. 400 crores from other budgetary sources. There would still remain a gap of Rs. 400 crores, which in the words of the Planning Commission, was "to be covered by additional measures to raise domestic resources". It is to be noted that the cost of the Plan has now gone up by Rs. 600 crores. This sum will have to be found. Further, the Finance Minister has told us that as the economy of the country could not sustain deficit financing of the order of Rs. 1,200 crores, without involving serious inflationary consequences, that sum should be reduced by Rs. 400 crores. In order to carry out the Plan in full, resources will have to be raised to cover this gap of Rs. 400 crores. As regards the Borrowing, by way of Loan and Small Savings, there has already been a gap of Rs. 158 crores during the first two years of the Plan. Even if the Finance Minister were to raise during the next three years the sum of Rs. 240 crores every year, by way of Borrowing, he will not be able to fill this gap. Resources will have to be

found to fill this gap. In addition to this, there is the original gap of Rs. 400 crores. Taking all these gaps together, it is clear that resources will have to be raised to the extent of Rs. 1,558 crores.

As against this, the additional taxation imposed during the last fifteen months will yield during the Plan period, according to the calculations of the Finance Minister, a sum of Rs. 800 crores, out of which Rs. 450 crores was already taken account of, thus leaving a balance of Rs. 350 crores. He further expects a sum of Rs. 150 crores, which would be raised by the States as additional taxation although most of the States have planned for deficit budgets to the tune of about Rs. 70 crores. So far as the foreign-aid is concerned, he has told the country that he was hopeful to get about Rs. 1,000 crores. On the supposition that all these expectations of the Finance Minister would be realized, he would get under these Heads extra resources to the tune of Rs. 700 crores during the Plan period as against the gap of Rs. 1,558 crores, which is to be filled up. It will, therefore, be obvious that in order to carry out the Plan, as it is, the Finance Minister will have to find extra resources to the tune of Rs. 858 crores during the coming three years (see Appendix). While concerted efforts are being made to realise the target in respect of foreign-aid, it may not be possible to get more than Rs. 720 crores by way of internal borrowing during the next three years. The crucial question which we have, therefore, to solve is to find resources to cover the expected gap of Rs. 858 crores. It is possible that our Defence expenditure which has witnessed a rise of nearly Rs. 50 crores this year, might go up during the next three years. We are not taking into consideration any further resources that might be needed to meet the expenditure under that vital Head. It is true that the Finance Minister told us during the course of his Budget Speech that he had "outlined the tax structure for the Plan period". He added that "there will, undoubtedly, have to be some adjustments in this structure from year to year, but I expect that these adjustments will be relatively small for the rest of the Plan period". My Committee, however, consider it their duty to give expression to their very serious concern that while the burdens imposed by new taxation during the last fifteen months are beyond the capacity of the country to bear, they cannot contemplate the future with equanimity if all these Rs. 858 crores or even a very substantial part of it would have to come out of additional taxation during the next three years.

As candidly stated by the Finance Minister in his Budget Speech, the Second Five-Year Plan has run into difficulties. The stresses and strains in the economy have already become visible in the very first year of the Second Five-Year Plan. The country is faced with an acute position in respect of its foreign exchange resources. The agricultural situation also causes great concern. The prices have been showing an upward trend, followed by a demand for wage increase. All these indicators point to the difficulties with which the country is confronted. It is against this background that the problem of the implementation of the Second Plan and that of finding adequate resources for the same has to be viewed. Since the starting of the Second Plan, the magnitude of the overall burden of additional taxation has been of the order of Rs. 18 crores, including the new imposts of Rs. 93 crores proposed in the Budget, which are subject to certain minor concessions already announced. The problem facing the country is whether it has the capacity to bear this abnormal burden without producing serious dislocation in the economy and defeating the very objectives in view. It is also necessary to consider the more fundamental question whether, in view of the numerous burdens imposed on the private sector, they will have adequate resources left for making the required contribution to the development of the national economy.

Since the early stages of the consideration of the Plan frame, which became the basis for the formulation of the Five-Year Plan, the Committee of the Chamber had pointed out that the real resources available to the country were not adequate for launching upon a plan of this magnitude. When representations were made to the Taxation Enquiry Commission, pointed attention was drawn by the Committee to the effect that the country would not be able to bear the burden of taxation as also of deficit financing on a large scale, and a realistic approach in the matter was stressed.

In regard to the question of the rate of savings and capital formation, my Committee wish to point out, the tendency has been to attempt a comparison with certain industrially advanced countries. The problems of a country, which launched upon a policy of rapid industrialisation and all-round economic development from an under-developed stage are entirely different from the problems of countries, which have already so advanced. Industrial growth in those countries has been the result of a long process of evolution and such process has been immensely assisted by fiscal measures, which gave sufficient scope for incentives to provide for proper rehabilitation. Taking into account

our Plan targets, the original figure was Rs. 4,800 crores in the public sector and the same has been stepped up to Rs. 5,400 crores. The original figure of Rs. 4,800 crores was obviously determined on the basis that the country had the capacity to bear that burden. It should be remembered that additional taxation amounted to a little over 9 per cent of the originally estimated cost of the Plan. If as a result of appreciation in prices, etc., the cost of the Plan has now gone up to Rs. 5,400 crores, the logical remedy lies in confining the layout to more essential projects. After all, the strain and stress on the tax-paying public should not be of such a magnitude as would impair confidence and would create a feeling of utter disappointment. Further, in fixing the layout for the Plan, no consideration has been shown for the income potential as a result of the huge investment programme: in case such yield is taken at the low rate of 5 per cent same would give an annual yield of Rs. 240 crores. This factor should warrant a proper re-adjustment of the Budget estimates and, after taking due cognisance of such income potential, the need for resort to further and heavier taxation may not exist. If, on the other hand, the Plan is not expected to produce the required result in the shape of income potential, to that extent the resources raised would *ipso facto* go into expenditure of a non-developmental character.

My Committee would emphatically point out that initiation of changes in tax structure as would make tax yield progressively more responsive to the increased incomes and facilitate an orderly development of the economy, would stand implemented in theory alone, inasmuch as the net result of changes being effected may ultimately be that the country gets diminishing returns and for the sole objective of not making the Plan flexible at all the very productive sources may get crippled.

Difficulties have of course arisen as regards the foreign exchange position of the country, but even in respect of this matter my Committee would, with great humility, mention that no country with any programme of planned development can think in terms of producing or creating all the foreign exchange that is needed for the industrialisation of the country which will give fruits for decades to come, in the course of barely 5 years. Resort should have to be made to a well-regulated borrowing programme and credit terms as also the participation of the industrially advanced countries for the setting up of industries in our country. Such a method would mean a rational re-adjustment of the Budget layout. The process of finding out

more than 10 per cent of the resources for capital outlay from the revenue resources cannot at all be justified. Even on the basis of raising Rs. 800 crores, by way of additional taxation, by the Centre, and Rs. 150 crores by way of new taxation by the States, the capital expenditure of Rs. 4,800 crores of the original estimate will be financed from revenues to the extent of nearly 20 per cent. Such financing is against all equitable canons of taxation.

In this context, the question of securing maximum possible economy and avoidance of waste in public expenditure assumes specially great importance. There is an imperative need which has been stressed from different quarters recently, for keeping non-developmental expenditure to the minimum level possible, so as to make increasing resources available for developmental activities. There is a growing feeling in the public mind that revenues raised by fresh or additional taxation are absorbed to a considerable extent in expenditure on administration and of a non-developmental nature. A view is strongly held by many that there is a great scope in promoting economy and preventing avoidable waste in executing the schemes and the projects of the Plan. It is, therefore, gratifying to note that our Prime Minister has taken serious note of this aspect and has issued instructions for effecting necessary economy in Governmental expenditure, wherever possible. It is also heartening to note that the Finance Minister has actually introduced a scheme to achieve the objective in view. It is legitimate to hope that, as a result of these steps, Government will prevent wasteful public expenditure both in the administrative working and in the execution of the schemes of the ever-expanding public sector. Constant vigilance, critical analysis and continuous economy in connection with the cost of running the administration of the country and that of working the Plan are the inevitable needs and responsibilities of the hour.

In the light of the foregoing observations, on the economic position being reviewed from time to time and a proper re-adjustment and layout being made of the Plan fulfilment and the budgeting of the relevant items, the Committee of the Chamber strongly feel that the need for resorting to heavy additional or fresh taxation may not exist and, they, therefore, make an earnest appeal for a realistic approach and a reasoned consideration of the analysis so made.

Repeated assurances have been given that the private sector has been assigned an honourable place and is expected to play

an important role in the process of the speedy industrialisation of the country. However, with the ever-increasing burdens and the seriously growing drain on the company's resources, as a result of the capital gains tax and the inequitous wealth tax, which curbs and cripples all initiatives, high and inflexible labour costs, restrictions on managerial discretion, excessive restraints and regulations on business, increasing displacement of normal trade channels by the operations of the State Trading Corporation and subsidised companies, the position of the citizens, who are determined to play their part in the industrial development of the country, has become really very difficult. With the heavier and additional taxation, corporate enterprise in the country would find it extremely difficult to function properly, let alone the question of incentives to save and invest being provided. The new taxes and the enhanced burden of corporate taxation are bound to act as definite dis-incentives. My Committee are constrained to observe that if the present unfavourable climate for capital formation in the country continues, it may have serious repercussions on the successful implementation of the Plan itself.

The Committee of my Chamber are aware of and appreciate some of the relieving features in the taxation proposals announced by the Finance Minister. While the reduction in the personal rates of taxation and the relief given for earned incomes, both for purposes of income-tax and super-tax obtaining at all ranges of income upto Rs. 35,000 and at ranges exceeding an income of Rs. 1 lakh are indeed of a welcome nature, the lowering of the tax-free slab from Rs. 4,200 to Rs. 3,000, which would rope in a large number of the lower middle-class group of income earners, who have already been subjected to high costs of living consequent upon the various indirect levies, is bound to give room for a legitimate ground of grievance and apprehension that Government's taxation measures are becoming more and more regressive; and if the price line and the inflationary forces persist in pushing up the cost of living the same may as well result in nullifying the anticipated benefits from the rise in national income at the end of the Second Plan period.

My Committee are gratified to note that the compulsory distribution by companies engaged in industries and coming within the ambit of Section 23A is now lowered to 45 per cent; they however feel that the same relief should have been extended to trading companies coming within the purview of this section, which are engaged in trading activities which earn foreign exchange for the country. The benefit resulting from such reduc-

tion in the distribution percentage would however be nullified by the imposition of a wealth tax on companies. Reduction in the rates of super-tax for inter-corporate dividends which was 20 per cent for foreign companies and 17 per cent for Indian companies, to a uniform rate of 10 per cent is no doubt a measure which would prove a definite incentive to investment of foreign capital within India. Specific mention is to be made of the income earners from dividend, ranging between Rs. 35,000 and Rs. 1 lakh who pay at a higher rate than those paying in respect of other ranges. Dividend income being the produce of equity capital, which is the life-blood of corporate enterprise, and the equity holders require a more sympathetic consideration or even a special consideration during the planning period, when equity capital is so badly needed, the Committee of my Chamber would strongly urge that dividend income, which has so far been treated as 'unearned' income, should be treated as 'earned' income and taxed as such. While the rates for the excess distribution of dividends have been reduced, the rate stands at 30 per cent for companies making a distribution of over 18 per cent of the paid-up capital with the result that in respect of such companies the total burden would be substantially very high. If the bias is to be in favour of corporate investment, my Committee venture to submit, there is no justification for retaining the bonus issue tax. Ploughing back ought to be there and for such ploughing back if excess distribution has to be penalised, there is all the greater reason for the total abolition of the tax on bonus issues. If and when the bias is placed in favour of individual saving, the taxing of bonus issues may be considered on merit, but in the present context of things such a levy has no justification and when the bias shapes for individual savings the tax for excess dividends can have no justification at all. The simultaneous levy of a tax on excess distribution and on the bonus issues is a contradiction in terms and such a levy cannot be justified on any fair and reasonable grounds.

As regards the proposed tax on wealth, my Committee do not consider it either wise or justified, to levy it, particularly when rapid economic development of the country is the prime need of the hour. Moreover, the levy of the wealth tax on companies can neither be justified on the ground of capacity to pay or on the plea of removing the inequalities of wealth, or as a preventive against the ostentatious display of wealth. It seems to my Committee that the only justification for Government in levying this tax seems to be the desire to collect revenue

through this measure as part of their fiscal programmes for financing the Second Five-Year Plan. Apart, however, from the objection of my Committee against this tax on principle they would like to stress the fact that in view of the difficulties and the time involved in ascertaining the value of assets for calculating the tax, Government may not secure any appreciable revenue from this source within this Plan period. It is relevant in this connection to point out that the proposal to levy a wealth tax was considered and dropped in the U.K., because it was found that the valuation of all properties was likely to take considerable time delaying the actual collection of the tax. It may also be pointed out that except in a few small continental countries like Holland, Sweden and Finland, no country levies a tax on the wealth of individuals. It may be further relevant to point out that a country like Japan had to review the position after a brief period of the existence of such a levy and give it up altogether.

While my Committee are entirely opposed to the levy of wealth tax on corporate enterprise, they would like to urge certain vital considerations which would convince an impartial thinker that the levy of such a tax on the wealth of corporate undertakings will lead to extremely serious consequences. Wealth tax is a tax on productive capital and the imposition of such a tax will not only divert productive resources from the private sector to the public sector, but it will also act as a damper on corporate investment as well, because an uncalled for and unjustifiable burden will have been placed on such enterprise at a time when it requires all encouragement for a proper ploughing back of profits, the retention of such profits and the rehabilitation thereof for the industrial expansion of the country. As it is, my Committee may point out, equity capital has been shy as a result of various tax imposts affecting corporate enterprise, and wealth tax on companies, in addition to impeding the formation of new companies, will only act as a serious dis-incentive in the case of existing ones. Further, companies having no income or even incurring losses would also be liable to this tax. Taking into account the provision enabling a carry-over of losses for the purpose of seeing that capital depletion does not take place as a result of fiscal measures, a tax of this type on companies is not called for and is most inappropriate.

While my Committee are convinced that the imposition of Wealth Tax on corporate undertakings will seriously deplete their financial resources, the impact of this new burden on industries which have to compete in the international world will

not only cripple their competitive strength, but it may also in cases like Shipping Companies affect their very existence. It is against national interest to impose more rigorous burdens on such industries than those imposed by other countries on similar industries with which our industries have to compete. For instance, Indian shipping has to face the competition of British shipping on many routes of our overseas trades. But while Indian shipping has to pay Capital Gains Tax, British shipping has to pay no such tax. Again, while Indian shipping will have to pay the new Wealth Tax, British shipping has not to pay such tax. Moreover, while British shipping gets an Investment allowance of 40 per cent on the cost of a new ship, Indian shipping gets only 25 per cent as a Development rebate. It should also not be forgotten that Indian shipping has also to survive against the inroads of ships flying the flags of countries like Panama, Liberia and Honduras, the tax legislations of which provide for substantially low rates of taxation and do not also subject to taxation income of shipping arising outside their respective territories. My Committee feel that the levy of wealth tax on shipping companies, which have to face competition of the above type in the international sphere, cannot even be contemplated.

Wealth Tax on companies is sought to be justified on the ground that such a tax obtains in certain European countries. It should be pointed out that India is on the threshold of industrialisation, while the countries specified have different problems to face and their economies are of a different nature. These countries have passed through the phase of industrial revolution already. In this connection, my Committee may be permitted to point out that the basic data have not been correctly stated. For example, for Switzerland the rate is stated to be  $\frac{3}{4}$  per cent for domestic companies, but the rate of such capital tax on all capital owned is .05 to .35 per cent in case of individuals, trust funds or the entire estate or assets of associations and in respect of corporations there is a flat property tax of .075 per cent on the amount of capital and reserves as a Federal levy, there being an additional Cantonal tax on capital and reserves which varies from .05 per cent to .2 per cent. In respect of Finland there is no tax on invested capital, but there is a Real Estate Tax which varies from .1 per cent to 2 per cent for an individual on type and location of properties and 1 per cent for corporations. For Norway, there is a State capital tax on the net worth which is defined as assets of the company at their book values, and the rate varies from 0.2 per cent for domestic com-

panies to 0.75 per cent for companies domiciled abroad, but no tax is levied if the net worth is less than 5,000 Norwegian Kroner (about Rs. 3,500). In Sweden too, such tax is payable on the net amount of all capital owned except furniture and articles of domestic equipment used in the home. This provision appears to have been confused as one relating to domestic companies. The rates graduate from 0.5 per cent to 1.8 per cent, the highest rate obtaining for a net worth of about Rs. 9,50,000, but there is a stipulation to the effect that in case the total assessed income from all sources is less than  $3\frac{1}{2}$  per cent of capital assets, then the capital assets tax is not levied on the part of the assets which is over 30 times the total assessed income from all sources.

It will be evident from what is stated above that there are very few countries indeed in the world which have got legislation on wealth tax. Moreover, the respective legislations of these countries have given a definite indication to the effect that the tax is imposed at very low rates on net worth as it is understood in one or two countries and in respect of other countries, it is either a tax on the paid-up capital of the company or on the real estate, i.e. the property as such, belonging to the company. In substance, the levy in the form in which it is visualized to be imposed in our country, does not obtain in any country of the world.

My Committee would also like to point out certain serious features of the proposed levy. In the first place, the shareholders will have to pay a wealth tax on that part of the wealth of corporate undertakings, which they have invested in those corporations. In the second place, the corporations will pay the wealth tax again on the same asset, a position which is neither equitable nor fair. Further, it should not be forgotten that if the country has to maintain the export drive and if the industries participating in the international sphere have to preserve their place and position in world market, their competitive capacity should not be impaired. In addition, at a time when the country is anxious to attract investment of foreign capital, the proposed tax on wealth of companies will act as a grave deterrent to intending investors from abroad.

To put it shortly, it is the considered view of my Committee that the imposition of wealth tax on individuals and Hindu undivided families can be thought of only after a very substantial reduction in the personal rates of taxation is made and such a levy can, if at all, be justified only with the rate for the highest

slab being brought down to the maximum of 50 per cent as against the present rate of 77 per cent for earned and 84 per cent for unearned incomes. As regards the levy of the tax on companies, my Committee reiterate their view that they are entirely opposed to the same.

If, despite the definite and categorical opposition of my Committee to the levy of wealth tax on corporate undertakings, Government will still decide to levy this proposed tax on organised industries, my Committee consider it their duty to make a clear distinction between productive and unproductive wealth. If a tax is levied on productive wealth during the planning period, it will not result in any advantage on the whole for the simple reason that there would be a diversion of funds from the private sector to the public sector. In the light of this observation, all wealth usefully employed for industrial and incidental purposes should remain exempt, whether the tax be on individuals, Hindu undivided families, partnerships and associations on the one hand, or on companies on the other. In addition to companies coming under the purview of Sections 15C and 56A of the Indian Income-tax Act being exempted from the levy, it is necessary to exempt the shareholders of such companies also from the levy in regard to their respective shareholdings. In respect of companies, a point may be made out that there are private companies, the shares of which are held by a handful of people or even in respect of some public companies the holding is concentrated in the hands of only a few persons. The test for determining the imposition of a wealth tax on companies should not be whether the shares are held in the hands of particular individuals, but whether the wealth of the respective companies is employed for industrial, commercial or such incidental purposes which are contributing to the economic progress of the country. If the assets of these concerns, whether corporate or not, are so employed, the respective wealth ought to remain exempt from the purview of wealth taxation. It will also be not equitable to impose such tax on business undertakings during the period they incur losses. In this connection, my Committee would suggest that in case of business and other assets, wealth tax should not be levied unless such assets earn a net profit of at least 6 per cent on their capital value. Further my Committee would strongly urge for exemption of the value of goodwill of a business from being included in the net wealth for purposes of wealth tax unless the goodwill amount is actually realised.

Again, the valuation that is proposed is on the basis of balance sheet values for business concerns, but the discretion is absolutely vested with the taxing authorities to levy tax on the market values of such assets. This is highly detrimental to the future of industries in this country. Tax on the basis of market values will be an amount of collection out of all proportion and may have its impact on their very existence. It is suggested that the valuation of business assets should be on the basis of cost, less all the depreciation allowable to it under the Income-tax Act, and it should be on the basis of a written down value of the asset so arrived at as at the last date of the year for which the wealth tax imposition can take place. In respect of non-business assets, the proper method should be to take the cost or market value, whichever is lower and in case the Department desires to put a higher value, the assessee should have the option of selling that property or asset in question to Government at the value fixed by Government for purposes of wealth tax levy.

With regard to the proposal regarding Expenditure Tax, the Committee of the Chamber desire to point out that such a measure has no parallel in the tax system of any country and it has not passed beyond the base of theoretical discussion. If savings have to be generated and unnecessary expenditure checked, it can well be done by regulating the imports and by having heavy duties in respect of consumable articles, even of a prohibitive character, so that by sheer compulsion useless expenditure would stand curtailed. The administrative difficulties would be immense for implementing such a tax and, if the same effect would be obtained by other means, the experimentation of a novel tax levy of this character should not be made in the planning period, because the country cannot take risks and experiment at this stage.

Prof. Kaldor has himself in his report admitted that it would be administratively more difficult to handle an expenditure tax than the income-tax. Even in advanced countries like the U.S.A., the proposal for the imposition of expenditure tax, although considered, was ultimately given up on account of administrative difficulties involved. It would be interesting to note what Prof. Kaldor has to say in this behalf, viz:

“It should be clear that it would be impossible to think of replacing the present system with an expenditure tax system at one stroke, so to speak. There is well over a hundred years' accumulated experience in administering

the income-tax. There is no experience concerning the expenditure tax . . . and it is not really possible to foretell with any confidence how difficult its administration would prove in practice."

My Committee feel that this impost would open out a wide door for tax-evaders to make use of their ill-gotten gains and the same is bound to put a premium on dishonesty. Again, the method of imposition is of a discriminatory nature, inasmuch as only those persons who have income exceeding Rs. 60,000 are likely to come within its purview. On a practical consideration, even the measure cannot produce effective results. The number of assessees, according to the latest available Central Board of Revenue report, with income exceeding Rs. 60,000 is only 6,330 (individuals and Hindu undivided families) and excluding the number of cases, which would not produce effective tax revenue, i.e. income ranges from Rs. 60,000 to Rs. 1 lakh, on the basis of the allowance of Rs. 24,000 plus Rs. 10,000 for 2 children, the number gets reduced to bare 1,200 and for such a number the collection may not be substantial.

Apart from the above considerations, my Committee are of the view that a measure like this takes little cognisance of the social conditions in India, where for generations together the idea of a moral obligation towards relatives for supporting them if they are poor, ill or without sufficient means of livelihood has existed. By sheer process of legislation this healthy social fabric would be impaired and people will be compelled not to fulfil their duties and obligations in accordance with the best traditions which form their most precious heritage in life. Medical facilities will not be allowed. Educational, cultural and artistic pursuits will be at a discount. Travels for education or for broadening knowledge will be discouraged. Public activities will not be encouraged. People will be compelled to give up their religious sentiments and religious activities on the occasion of birth, marriage or death. That will be the result of the compulsory collection which will be imposed by legislation on Indians—individuals as well as Hindu undivided families. But apart from these wider considerations of life and living, the provisions have been drafted in a very unsatisfactory manner, and are bound to create practical difficulties in the interpretation of what is expenditure and what is not, and in fact an item like jewellery which is expected to be treated as wealth for the purpose of wealth tax is at the same time attempted to be treated as an item of expenditure for the purpose of the expenditure tax. As it is, with an imposition of prohibitive

duties on luxury articles, the collection in a concealed form from the higher income groups already obtains and it is but necessary that, in view of the social structure, a revolutionary measure of this nature should not be attempted particularly in the planning period. My Committee are, therefore, of the emphatic opinion that it is vital in the larger interests of the nation that the proposed measure should be dropped altogether.

In the field of indirect taxation, the all-round increase has been sought to be justified on the ground of restraining consumption over a fairly wide field so as to keep in check domestic inflationary pressures and to release the resources for investment. The Committee of the Chamber would, however, like to suggest that it is necessary to observe if the imposition of extra burden in the shape of taxation does not result in pushing up the price structure and consequently the cost of living in the country. The cumulative incidence of a number of increases in indirect taxes will result in increasing the cost of living and will have also its impact on the wage structure. It is further a question whether taxation measures by themselves are anti-inflationary in their operation. There cannot be any guarantee that the revenue from such taxation will necessarily be utilised for purely developmental purposes and will not be absorbed by non-developmental expenditure.

My Committee submit that the higher rates of excise duties on articles of daily consumption like sugar, vegetable oils, tobacco and matches will inevitably result in appreciating their prices substantially, leading thereby to an increase in the cost of living and consequent demand for wage increases, that the levies on items like steel and cement will add materially to the capital cost of the Plan expenditure as also development expenditure in the private sector and that cumulatively the changes in direct taxation of the individual and companies will have undesirable effects on the incentive to work and to save.

Without detracting in any way from the foregoing views, observations and comments on the policy and fiscal aspects underlying the different forms of fresh or additional taxation as included in the Budget Proposals, the Committee of my Chamber would proceed to offer their considered suggestions and observations on some of the Clauses in the individual Bills, introduced in the Lok Sabha, which, in their opinion, are likely to make the taxation imposts burdensome and inequitous and to lead to administrative harassment to the assessees.

## THE FINANCE (No. 2) BILL, 1957

*Clause 4:*

Clause 4 seeks to substitute two new sub-sections for sub-sections (2B) and (2C) of Section 10 of the Indian Income-tax Act, providing for compulsory deposits by companies. The amendment is being made with a view to clarifying Government's intention and removing certain procedural difficulties likely to arise in the administration of the deposit scheme for companies.

In view of the 5 per cent increase in the basic rate of income-tax and 3 per cent in the effective rate of super-tax of Indian Companies and the substantial increase in the additional super-tax on bonus issues, over and above the proposed levy of a wealth tax on the assets of companies, my Committee strongly feel that there would be no justification for giving effect to the compulsory deposit scheme, and they, therefore, suggest that this provision be deleted, so that companies may have sufficient financial resources at their disposal to that extent for meeting their expansion and rehabilitation programmes.

*Clause 5:*

Clause 5 proposes to amend Section 15 of the Income-tax Act with a view to raising from 1/5th to 1/4th the limit upto which abatement is available for income-tax purposes on Provident Fund contributions and payments for Life Insurance premium. The maximum amount on which rebate would be available, however, has been kept at the present level of Rs. 8,000. While my Committee welcome the raising of the limit from 1/5th to 1/4th, they feel that the maximum should also be proportionately increased. They, therefore, suggest that the maximum should be enhanced to Rs. 10,000.

*Clause 7:*

This Clause proposes to make certain amendments in Sec. 23A of the Indian Income-tax Act. While my Committee are grateful to note that the percentage of profits which an Industrial Company is obliged to distribute under this Section has been reduced to 45 per cent, they feel that the same concession should also be made available to trading companies coming under the purview of this Section and carrying on such business which help in earning of foreign exchange.

It is proposed to delete sub-sections (3), (4), (5), (6) and (7) of Section 23A. Sub-section (3) of Section 23A empowers the Commissioner of Income-tax to reduce the amount of minimum distribution, having regard to the special requirements of the company's business. The proposal to delete this sub-section is possibly being made in view of the fact that the minimum distribution by industrial companies is to be reduced to 45 per cent. In this connection my Committee desire to point out that there will still be cases where, having regard to the special requirements of the business, it would be unreasonable to distribute the statutory minimum and in respect of such cases there will be the need for a procedure to have the minimum reduced. My Committee therefore suggest that a revisionary power be given to Commissioners in this respect and accordingly sub-section (3) of Section 23A should be retained. Sub-section (6) of Section 23A empowers a company to take credit of the excess distribution made in one or more of the three previous years immediately preceding the relevant previous year. The deletion of this sub-section would affect companies which may have made a larger distribution and this excess should be reckoned with in later assessments till it is exhausted and to that extent the said benefit should continue.

In connection with Section 23A, my Committee also suggest that if the company is in possession of any sum which has been deemed to have been distributed by the company and has also been subjected to tax, the same amount should not again be subjected to tax in a subsequent year when the amount is distributed by the company.

Sub-clause (4) of Clause 11 of the Bill provides that the provisions of Section 23A as in force immediately before the 1st day of April 1957 will continue to apply to a company in respect of its profits and gains of a previous year relevant to any assessment year prior to the year ending on the 31st day of March 1957. This would show that the new provisions would apply to assessments from the assessment year 1957-58. Companies coming under the purview of Section 23A, when making a distribution of their profits of the previous year for the assessment year 1957-58, computed the quantum of the profits to be distributed in accordance with the then existing provisions of Section 23A. In certain cases credit was taken under sub-section (6) of Section 23A of the excess distributed in one or more of the three previous years immediately preceding the previous year, while in certain other cases applications have been made under sub-section (3) to the Commissioner to reduce the minimum dis-

tribution required under sub-section (1) to a figure he considered fit in each case. Some of these references might have been already decided, while some might be pending, with the result that a distribution of less than the statutory percentage provided in the existing provisions might have been made. In such cases, it would be inequitable and against all principles of justice that such companies should be penalised for declaring less than the percentage prescribed under the amended provisions. My Committee, therefore, suggest that companies which have declared less than the statutory percentage should be given further time to distribute the shortfall in the distributions made by them.

*Clause 8:*

This clause proposes to amend Section 24 of the Income-tax Act. My Committee have noted with concern that the carry-over which was permitted for an indefinite period is now proposed to be restricted for a period of 8 years. The carry-over for an unlimited period was provided as a consequence of major changes made for the reopening of assessments and particularly those relating to assessment years 1939-40 to 1946-47, both years inclusive. It is very essential that in the changed context of things and reference of the cases for those relevant years having been already made to the then Investigation Commission and enquiries having been pursued by the Special Investigation Branch subsequently, the need for a provision to reopen assessments without any time-limit does not exist. My Committee therefore strongly urge for the deletion of the relevant provisions of the Income-tax Act so that the previous position is restored. Simultaneously, my Committee would also urge for consideration by Government of having a suitable provision in the Income-tax Act permitting a reduction in the assessment already made if apparently there was an over-assessment and such readjustment by reduction should be permissible for a period of 8 years, which is the period for reopening assessments. After all, when the State has the right to reopen assessments for a period of 8 years, in clear cases of over-assessment the assessees must have a statutory remedy of getting the reduction under the statute itself, if at a later stage it is found that for one reason or the other there has been an apparent over-assessment.

*First Schedule:*

The non-taxable limit is proposed to be reduced from Rs. 4,200 to Rs. 3,000 in the case of an individual and from Rs. 8,400 to Rs. 6,000 in the case of every Hindu undivided

family. Such a reduction of the limit, as pointed out in the preliminary observations, will cause immense hardship to a large number of the lower middle-class income-earners, who are already bearing the brunt of all-round increase in cost of living consequent upon the numerous indirect imposts. My Committee suggest that the limit in question should not be lowered, as proposed.

While my Committee welcome the increase in marriage allowance from Rs. 2,000 to Rs. 3,000 and the proposal announced by the Finance Minister to give a children's allowance to a maximum of Rs. 600 for two children, they feel that the proposal to make these reliefs not available to persons having an income of more than Rs. 20,000 is not justified. They, therefore, recommend that these allowances should be extended to all assessees who are eligible for the same irrespective of their income.

My Committee are of the view that the additional 15 per cent surcharge on income-tax as well as super-tax sought to be imposed on unearned income would nullify the relief measures announced under other heads. They, therefore, request that this surcharge should be substantially reduced. They also suggest that income from dividends should be considered as earned income and taxed as such.

#### THE WEALTH TAX BILL, 1957

The Committee of the Chamber have in their preliminary observations dealt with the inappropriateness and inequity of this measure of taxation and the serious, adverse and undesirable repercussions same will have on corporate enterprise in the country. Without prejudice to their general views on the proposal, they would like to make the following suggestions and observations on some of the Clauses contained in the Wealth Tax Bill, which, in their opinion, either require proper clarification in view of their ambiguity or suitable modifications.

##### *Clause 2(f)(i):*

Clause 2(f)(i) excludes agricultural land and growing crops, grass or standing trees on such lands from the definition of 'assets'. It is doubtful whether this exemption would apply to agricultural lands owned by a resident in India in foreign countries, since such lands are not assessable to land revenue by any of the State Governments in this country. Large agri-

cultural plantations are owned by Indians in overseas countries and if Government's idea is to exclude all kinds of agricultural property, wherever situated, it is necessary to make the position clear in order to avoid any future complications or administrative harassment. Countries like Pakistan have placed restrictions on the repatriation of profits from their territories and on account thereof owners of properties, including agricultural lands, situated in those countries will not be able to enjoy the usufructs of such properties in full. My Committee are of the view that agricultural properties, wherever they may be situated and owned by Indian citizens, be completely excluded from the scope of the levy.

*Clause 2(n):*

Clause 2(n) defines the term 'net wealth'. 'Net wealth' has been defined as the aggregate value of all the assets belonging to the assessee, computed in accordance with the provisions of the Act, wherever located. According to this clause, all assets belonging to an Indian citizen or a person resident in India and located in any foreign country would be liable to wealth tax. It is relevant in this connection to mention that the Estate Duty Act exempts movable property situated outside the territory of the Indian Union from that duty. The proposed wealth tax and the estate duty are more or less similar in their operation and coverage, both being a tax on the assets of a person, with the only difference that the former is an annual recurring levy whereas the latter is charged only once at the time of the death of the owner of the assets concerned. In principle, therefore, my Committee feel that there should not be any difference as regards the exemptions available under the two forms of impost. Again, as earlier pointed out, persons owning assets in countries like Pakistan, do not reap the full benefits therefrom on account of the profit repatriation restrictions prevalent there. For the purpose of assessing the tax payable by a person under this measure, it is necessary to ascertain the value of the assets owned by him. Evaluation of properties situate outside the country will be a difficult and costly process.

My Committee, therefore, suggest that the foreign assets of a person should be excluded, while calculating the net wealth for the purpose of the Act. If Government, for any reason, do not heed this suggestion, it is absolutely essential that at least foreign properties owned by assessees on the date the Act comes into force should be specifically excluded.

*Clause 3:*

This is the charging clause, and according to its terms the tax is payable by every individual, Hindu undivided families and companies. Associations of persons as such have not been specifically mentioned. May be that the tax will be levied in the hands of the various persons constituting the associations on that part of the wealth belonging to each of them. But under certain circumstances, it may be necessary to assess the association as such. My Committee, therefore, feel that it is necessary to make the position clear.

While on this, my Committee desire to point out that mutual associations like Chambers of Commerce and Trade Associations, should be specifically exempted from the scope of the levy, as they are non-profit-making organisations, functioning only for the benefit of their constituent members. Similarly, Associations registered under the Companies Act, 1956, or the Societies Registration Act or under any other law for the time being in force and devoted to charitable purposes should also be exempted.

*Clause 4:*

According to sub-clause (1) of this Clause, in computing the net wealth of an individual, assets transferred without adequate consideration by the individual to his wife or minor child or to a person or association of persons for the benefit of the transferor or his wife or minor child are to be included. In this connection, my Committee desire to point out that it is necessary to make sure that there is no duplication of the tax in the hands of the transferees. According to item (a)(iii) of this sub-clause the property held by a person or association of persons to whom assets have been transferred by the assessee otherwise than for adequate consideration for the benefit *inter alia* of his minor child is to be included in computing the net wealth of the assessee. My Committee desire to suggest that when the child attains majority the asset held for the benefit of the minor child should be considered as the asset belonging to that major child and the transferor should not be made liable to pay any tax on that asset.

Sub-clause (2) of this Clause provides for deduction from the value of assets any debts owing on the valuation date by the transferee mentioned in sub-section (1), in so far as such debts are referable to the assets in question. A clarification is necessary to the effect that the debts will also include those

created after the transfer by the transferee and it should not be as if the debts would be only those created before the transfer.

*Clause 5:*

This clause begins with the words "Wealth tax shall not be payable by an assessee in respect of . . .". The proviso to item (x) of this clause states that the value of any deposit or security exempted under item (x) will be included in computing the net wealth of an assessee. The existence of this proviso would show that in respect of all other items in this clause, their value will not be included in computing the net wealth of an assessee. If this position is correct, it will be necessary to make the same clear and introduce suitable changes in the wording of the clause. In this connection, my Committee would refer to Rule 1 of the Schedule which is ambiguous and inconsistent with the provision contained in Clause 5. My Committee feel that it should be specifically provided that in respect of all items on which wealth tax is not payable the same should not be included in computing the total wealth of the assessee.

Item (i) of the clause exempts property held by a person under trust or other legal obligation for religious or charitable purposes within India from payment of wealth tax. An amendment is necessary to the effect that in respect of trustees, the Trust as such would be exempt and instead of the exemption being stated under a separate sub-section, the exemption should be given under a separate section, stating that the Act will not apply to public charitable trusts, to non-profit-making associations as visualized by Sec. 25 of the Companies Act, to associations not so registered, but which are mutual in character or which have no business activity as such. The other exemption should be to the interest in a trust, which is a life interest and the question of imposition of the tax should be considered only in respect of an interest which is of a vested nature so vested at the time of the execution of the Trust Deed.

Again, there are cases where citizens and residents in this country hold in trust properties situated in India as well as outside, the proceeds of which are used for religious or charitable purposes outside India. If the sub-clause is to be retained, my Committee presume that it is at least not the intention of Government to tax such properties in the hands of such trustees resident in India merely because they happen to be trustees of those properties. The position may, therefore, be

clarified and a provision made so as to exempt such properties also from the levy of wealth tax.

Item (vi) exempts from wealth tax domestic animals, furniture, etc. The exemption will be available only upto a maximum of Rs. 25,000. My Committee feel that, except in the case of jewellery, the actual value of other items should be exempted and no ceiling should be fixed on the value of these assets. My Committee would further suggest in this connection that exemption for jewellery in the case of Hindu undivided families should be proportionate to the number of persons who are entitled to claim partition. In other words, jewellery upto a maximum limit must be exempted in the case of at least every male member comprising a Hindu undivided family.

Item (viii) exempts from the tax tools and instruments necessary to enable the assessee to carry on his profession or vocation, subject to a maximum of Rs. 2,500 in value. My Committee desire to point out that the expenses incurred in connection with the personnel required for the operation of the tools and instruments should also be exempt. A suitable provision in this behalf may be included. They also suggest that no limit should be placed on the value of such tools and instruments and the same should be exempted to the full extent.

#### *Clause 6:*

This clause provides for the exclusion of assets and debts located outside India in computing the net wealth of an individual who is not a citizen of India or of a Hindu undivided family or company not resident in India during the year ending on the relevant valuation date. In this connection, reference may be made to the wealth created by remittances made by Indian nationals residing abroad and wealth brought in by them when they come and settle down in this country. It is suggested that in the case of Indian nationals, now residing abroad, as and when they bring their wealth to this country, such wealth should not be subject to charge in the first year in which the wealth is brought in.

#### *Clause 7:*

This clause provides that the value of any asset shall be estimated to be the price which in the opinion of the Wealth Tax Officer it would fetch if sold in the open market. Sub-clause (2), however, provides that where the assessee is carrying on a business the accounts of which are maintained regularly,

the Wealth Tax Officer may determine the net value of the assets of the business as a whole having regard to the balance sheet of such business *as on the valuation date.*

Clause 2(q) defines valuation date as meaning the last date of the previous year as defined in Section 2(11) of the Indian Income-tax Act if an assessment were made under that Act. There is a proviso to this clause which reads:

"Provided that where in the case of an assessee there are different previous years under the Income-tax Act for different sources of income, the valuation date for the purposes of this Act shall be the last day of the previous year immediately preceding the year for which assessment is to be made."

From the above, it would appear that where a Company has different sources of income the valuation date will not be the last date of the year, e.g. 31-12-1956, for which accounts are made for assessment under Sec. 10 of the Income-tax Act but the last date of the previous year preceding the year for which assessment is made, i.e. 31st March 1957.

If this be the true mandatory character of the Clause, it will be a great hardship, for the Company will have no balance sheet as on 31-3-1957. It is submitted that in all cases where the assessee is regularly preparing Balance Sheet the valuation date should conform to such a date only whatever the previous years may be for other sources of income.

Apart from the mode of valuing the property, the clause places an absolute discretion in the Wealth Tax Officer in ascertaining the price of the asset. In the absence of any provision for formulating the method or basis for ascertaining the market value of the assets, such a discretion in the Wealth Tax Officer would lead to arbitrary decisions and harassment to the assessee.

My Committee would, therefore, suggest that the value of an asset for the purpose of this levy should be based on the assessee's book value or cost and not on the market value. Taxing the asset at market value would result in double taxation, once on the accretion when it occurs and again when it is realised. My Committee would also suggest that the valuation need not be made every year. Once a valuation is made, same should remain effective at least for a period of 3 years. This will avoid unnecessary work every year in respect of such valuations. If, however, it is decided to have annual valuation,

my Committee suggest that in respect of immovable property depreciation should be allowed.

*Clause 14:*

According to this clause, every person whose net wealth is of such an amount as to render him liable to wealth tax, is required on his own volition to file a return in the prescribed form before the 30th day of June of the corresponding assessment year. My Committee would suggest that provision should be made for a compulsory notice from the Department calling upon the person concerned to file his return, and it should not be left to the assessee to file such a return voluntarily.

Sub-clause (3) of this clause empowers the Wealth Tax Officer to extend the date for the delivery of return under this Section, if he is satisfied that it is necessary to do so. The Wealth Tax Officer has been given a pure discretion to extend the time for the delivery of the return. My Committee suggest that under circumstances which justify extension of the time, the Wealth Tax Officer should necessarily extend the time-limit.

*Clause 17:*

This clause provides for the taxation of wealth escaping assessment. It empowers the Wealth Tax Officer to re-assess at any time the net wealth which he has reason to believe has been under-assessed. In this connection, my Committee desire to point out that a question of under-assessment cannot arise since when a particular asset has been valued by Government, the assessment can have a bearing only on such valuation. They, therefore, submit that there is no need for making any provision for re-assessment in case where an asset has been under-assessed.

In cases falling under sub-clause (a), the assessment can be reopened at any time and in cases falling under sub-clause (b) it could be done within 6 years of the assessment year in which the asset escaped assessment. My Committee suggest that no assessment should be reopened after 4 years for any reason whatsoever, since it is possible that the assessees might have *bona fide* parted with the asset and it would be a hardship if they are called upon to pay tax on that asset which they no more possessed.

**Clause 21:**

According to this clause when assets are held by Court of Wards, Administrator-General, Trustees, etc., the wealth tax on such assets can be levied upon and recoverable from the Court of Wards, Administrator-General, Trustees, etc. in the same manner as it would be leviable upon and recoverable from the person on whose behalf the assets are held. With regard to this provision, my Committee suggest that the Court of Wards, Administrator-General, Trustees, etc. should be given a first charge on the income of the asset as well as the corpus, for payment of wealth tax due on the same.

**Clause 22:**

This clause provides for assessment of persons not resident in India. The clause does not provide for direct assessment on and recovery from the non-resident. My Committee, therefore, suggest that as in the Indian Income-tax Act it should be provided that the Wealth Tax due on the assets of a non-resident may be levied upon and recovered from his assets in the taxable territories.

As regards assessment on the agent the position would be entirely different from the one obtaining in respect of proceedings under Sections 42 and 43 of the Indian Income-tax Act, since there would be a business connection visualized by those sections which could establish a liability under the Income-tax Act. In the present case, the liability should extend only to a *de jure* agent, i.e. one appointed as such to look after the affairs of the non-resident and a person who is in charge of the property or wealth in question in India. After all, it is property that is subjected to tax and unless the person assessed has the absolute control of such property, to the extent that he can deal with it as if it belonged to him, the imposition of liability on an agent, who does not have the powers of operation in relation to the property or the wealth in question, would create a very difficult position indeed. It is, therefore, suggested that the liability should extend to a resident agent only in such cases where the person in question has absolute control over the property or wealth in question as if it belonged to him and, if necessary, the Act may provide for the appointment of such statutory agents for purposes of the Wealth Tax Act. Provision may also be made empowering, as under Section 42 of the Indian Income-tax Act, the Agent to retain out of any money payable to the non-resident a sum equal to his estimated liability.

and also to approach the Wealth Tax Officer in case of disagreement between the agent and the non-resident assessee for a certificate stating the amount to be so retained.

*Clause 23:*

In addition to the orders of the Wealth Tax Officer, from which appeals would lie to the Appellate Assistant Commissioner mentioned in this clause, an appeal should also be available from an order determining a person as agent under Clause 22. According to sub-clause (2) of this clause, an appeal has to be presented within 30 days of the receipt of the notice of demand. It is suggested that the period may be increased to 60 days.

*Clause 24:*

According to sub-clause (1) of this clause, an appeal will lie to the Appellate Tribunal within 60 days from the date on which the assessee is served with the notice of the order of the Appellate Assistant Commissioner. My Committee suggest that the period of 60 days should be increased to 90 days. There is no provision empowering the Appellate Tribunal to condone delay in filing the appeal. It is, therefore, suggested that the Appellate Tribunal should be empowered to excuse delay and accept appeals made after the expiry of the period provided in cases where the Tribunal is satisfied that there was sufficient cause for not presenting the appeal within that period. Sub-clause (4) of this clause empowers the Appellate Tribunal to enhance an assessment in appeal. My Committee are of the view that the Appellate Tribunal should not be empowered with the right to enhance the assessment.

According to sub-clause (5) of this clause, whenever there is any question of disputed value, same may be referred by the Appellate Tribunal to the arbitration of a Committee consisting of a Valuer and an Adviser appointed by the Board. In order to preserve the independent character of the persons hearing the reference, it does not seem advisable that the arbitration should be conducted by persons appointed by the Board. My Committee, therefore, suggest that the dispute should be referred to the arbitration of independent persons and the proceedings in this regard should be conducted in terms of the provisions contained in the Indian Arbitration Act.

My Committee would invite Government's special attention to the anomalous position at present obtaining under the Estate Duty Act and Rules where an invidious distinction is made

between architects, engineers, Chartered Accountants and other valuers. While in the case of architects, engineers, actuaries, etc. the period of time for which they have practised is the test, i.e. 10 years, in the case of others a particular quantum of notional work is taken into consideration. It is respectfully submitted that so far as company shares are concerned, every Chartered Accountant should be deemed to be competent to make valuations and it is for the company or the assessee to decide as to the person in whom he will repose his confidence. There are cases of persons who, on principle, do not submit to this distinction and do not apply for being put on the list of valuers. It is respectfully submitted that a period of 10 years' standing for Chartered Accountants and other valuers should be the guiding factor and therefore for purposes of the Wealth Tax Act, the valuer, if one is appointed, should be a professional man of ten years' and in other cases a valuer of ten years' standing, there being no other artificial requirements to be complied with. This alternative suggestion is being made with a view to point out the invidious distinction. But it is felt that the healthier mode of approach, that is of having pure arbitration proceedings under the Arbitration Act, should be statutorily provided for. As it is, with a provision giving an option to the assessee to part with his property for sale to Government at the price to be fixed by Government, even valuers would not be necessary and my Committee very strongly urge that the valuation of business assets should be on the basis of the cost, less all the depreciation allowed and the valuation of other assets should be at cost or market value, whichever is lower, with an option to the assessee to sell to Government the property at the higher valuation fixed by Government.

*Clause 25:*

As per sub-clause (1) of this clause, the Commissioner may call for and examine the record of any proceedings under the Act, if he considers that any order passed therein by a Wealth Tax Officer is erroneous in so far as it is prejudicial to the interests of revenue. It does not appear to be fair that the powers of review vested in the Commissioner should be restricted to orders prejudicial to the interests of revenue. An assessee should also have the right of review by the Commissioner when he feels that his interests have been injured. The provision should, therefore, be amended suitably. The sub-clause also empowers the Commissioner to enhance the assessment on re-

view. My Committee suggest that the Commissioner should not be so empowered with the power of enhancement.

In this connection, attention may be invited to the Income-tax Act whereunder the Commissioner is empowered to revise the orders passed by any authority subordinate to him, which would mean that he could revise the order not only of the Income-tax Officer but also of the Appellate Assistant Commissioner. Clause 25 only empowers the Commissioner to revise the order passed by a Wealth Tax Officer. My Committee suggest that the provision be amended on the same lines as that contained in the Indian Income-tax Act.

According to sub-clause (3) of this clause, if in the course of any proceedings under this clause a question arises as to valuation of any immovable property the Commissioner may, and if the assessee so requires, he shall, refer the question of valuation to the arbitration of a Committee consisting of a Valuer and an Adviser appointed by the Board in this behalf. As my Committee has observed while dealing with sub-clause (5) of Clause 24, any dispute in respect of valuation should be referred to independent arbitrators and proceedings conducted according to the provisions of the Indian Arbitration Act and not to a Valuer and/or an Adviser appointed by the Board.

Sub-clause (4) of this clause provides that the provisions of sub-sections (5), (6) and (8) of Section 24 shall apply to Section 25. Section 24(8) provides that orders passed by the Appellate Tribunal on appeal shall be final. Therefore, the application of sub-section (8) of Section 24 to Section 25 would mean that the order passed under Section 25(1) by the Commissioner will also be final. Section 26(1), however, gives the assessee power to appeal to the Appellate Tribunal from orders of enhancement passed by the Commissioner.

On a proper reading of the above provision, while Section 25(4) read with Section 24(8) makes the Commissioner's order in review final, Section 26(1) gives the assessee power to appeal from such an order to the Tribunal. There appears, therefore, to be some inconsistency and this, my Committee request, may be looked into and suitably remedied.

#### *Clause 26:*

According to this clause an assessee objecting to an order of enhancement made by the Commissioner may appeal to the Appellate Tribunal within 60 days of the date on which the

order is communicated to him. My Committee suggest that the period of 60 days should be extended to 90 days. Further there is no provision empowering the Appellate Tribunal to condone delay in the matter of filing the appeal. It is, therefore, suggested that the Appellate Tribunal should be empowered to condone delay and accept appeals made after the expiry of the prescribed period in cases where the Tribunal is satisfied that there was sufficient cause for not presenting the appeal within that period.

*Clause 32:*

This clause prescribes the mode of recovery of the tax due under the Act and provides that for this purpose the provisions of sub-sections (1) to (7), both inclusive, of Section 46 of the Income-tax Act would apply as if the said provisions of the Income-tax Act were incorporated in this Act with necessary amendments. According to sub-section (1) of Section 46 of the Indian Income-tax Act when an assessee is in default in making a payment of income-tax, the Income-tax Officer may in his discretion direct the recovery from the assessee by way of penalty a sum not exceeding the amount of the arrears due from the assessee in addition to the arrears itself. Sub-section (1) of Section 30 of the Income-tax Act makes provision for an appeal to the Appellate Assistant Commissioner against any penalty imposed by the Income-tax Officer under sub-section (1) of Section 46. Clause 23 of the Wealth Tax Bill which enumerates the orders of the Wealth Tax Officers from which appeals will lie to the Appellate Assistant Commissioner does not provide for an appeal from any penalty which a Wealth Tax Officer may impose under the powers vested in him by Clause 32 of the Bill in the course of recovery of the Wealth Tax due from an assessee. As the provisions in the Income-tax Act and the proposed Wealth Tax legislation in this connection are similar, it is necessary to provide for an appeal from an order imposing a penalty under Clause 32 of the Bill. My Committee, therefore, suggest that a sub-clause may be added to Clause 23 of the Wealth Tax Bill making provision for such an appeal.

*Clause 34:*

This clause provides that any document required to be registered under certain provisions of the Indian Registration Act enumerated therein relating to transfer of immovable property shall not be so registered unless the Wealth Tax Officer certifies that the transferor has either paid or made

satisfactory provision for the payment of all existing or anticipated liabilities under this Act or that the registration of the document will not prejudicially affect the recovery of any existing or anticipated liability under the Act. My Committee feel that it is necessary to fix a time-limit within which the Wealth Tax Officer could object to any registration. In all cases where an objection is taken by the Wealth Tax Officer he should give his reasons for doing so in writing. Again the objection should not relate to any anticipated liability of the transferor as it will not be proper to do so in view of the fact that the liability would not be ascertained or ascertainable.

*Clause 44:*

This clause enumerates the persons who could appear before the Wealth Tax authorities on behalf of the assessees. Income-tax practitioners have not been included in the list of persons entitled to appear before the Wealth Tax authorities. Since the procedure for assessment, recovery and appeals prescribed for the Wealth Tax levy are substantially similar to those under the Income-tax law and the assessments are to be made by Income-tax Officers ordinarily along with Income-tax assessments, my Committee suggest that Income-tax practitioners, who have been handling income-tax assessment cases for their clients, should be allowed to appear on behalf of the assessee concerned as this procedure would facilitate both the assessee as well as the Department in dealing with and disposing of Wealth Tax cases. Further since the Income-tax practitioners are also preparing the balance sheets of their client firms their services would be of great help to Government in arriving at the net wealth of an assessee for wealth tax purposes.

*Schedule:*

According to the Schedule, Wealth Tax will not be payable by an individual when the net wealth is less than Rs. 2 lakhs, by a Hindu Undivided Family when the wealth is less than Rs. 3 lakhs and by a Company when the wealth is less than Rs. 5 lakhs. My Committee suggest that the minimum net wealth not liable to tax should be increased to Rs. 5 lakhs in the case of Individuals, Rs. 7 lakhs in the case of Hindu Undivided Family and Rs. 10 lakhs in the case of Companies. My Committee also desire to suggest that, as in the Estate Duty Act, over a particular range assessment of wealth tax should be made by Inspecting Assistant Commissioners and above a still further range by Commissioners.

Rule 2 of the Schedule makes an attempt to avoid to a certain extent double taxation in respect of assets of a private company both in the hands of the company as well as the shareholder. As my Committee have earlier observed, the most inequitous part of this levy is the incidence of double taxation. It is, therefore, necessary that this obnoxious feature of the levy should be avoided, and my Committee suggest that the concession contemplated under the Rule should also be made available in respect of all companies, public as well as private, including Section 23A Companies. The question of issuing wealth tax certificates in respect of tax paid on shareholdings may also be considered.

The Wealth Tax Act would be a totally new measure now being attempted in our country and great care will have to be taken in its administration. It is felt that the powers to be vested in the Wealth Tax Officers would be misused unless they are exercised with great circumspection, and to allay the fears of the business community it is very necessary that the powers of search, etc. which are enunciated for the purpose of the administration of fiscal measures like the Income-tax Act and Sales Tax Act, should not be included in the Wealth Tax legislation or the rules framed thereunder. Social conditions in the country will have to be taken cognisance of and with a social background where citizens have been accustomed for centuries together to have hoarded wealth and have gold as well as jewellery articles with their womenfolk, it would create a very serious position indeed if the taxing officials were to visit the personal apartments and inspect in a free manner the belongings of such womenfolk. It would, therefore, be necessary to make provisions for the necessary check-up of the wealth not by coercive methods, but by resort to voluntary declarations and income-tax assessment records. If at all personal inspection is necessary the powers for such inspection should be vested in the higher officials, i.e. the Commissioner of Income-tax, and no officer below the rank of a Commissioner should be given power in this behalf. My Committee further urge that jewellery declared not being 20% of net wealth should be considered as reasonable and no enquiry should be made in respect of such holding and/or its source of acquisition. Such a provision will eliminate to a very considerable extent chances of harassment.

## THE EXPENDITURE TAX BILL, 1957

*Clause 2:*

According to Clause 2(g), the term 'dependent' has been defined to include only a son or daughter of the assessee, when he is an individual. In India, it is traditionally common to people of means to support or render assistance to their poor relations, and it is a moral obligation cast on a person to support his aged parents and other relations who depend upon him for their livelihood. Under the existing social conditions in our country, a person with better status in life owes a moral obligation to his relatives or even others, whether less fortunately placed or placed in unfortunate circumstances and for one reason or another, they cannot find themselves the necessary means of livelihood. The restriction of the definition of the term 'dependent' would disrupt this healthy order of social life and would deprive the poorer relatives the benefits that would be passed on to them by their more fortunate relations. My Committee, therefore, suggest that the definition of the term 'dependent' should be expanded to include parents, brothers, sisters and other relations, who entirely depend upon the assessee for their means of livelihood.

Clause 2(h) of the Bill defines the term 'expenditure'. The definition is based on the concept of outgoings which will include not only expenditure items, but also items of a capital nature. Such a definition does not take cognisance of the net income concept. After all, expenditure can be incurred out of the net surplus of income, under whatever head it may be derived, and the approach on the basis of a pure outgoing or a payment is not a correct one. It is, therefore, respectfully submitted that 'expenditure' should mean a pure item of expenditure and not a mere outgoing. The surplus of net income under the various heads of income, defined under the Income-tax Act, should be determined on the basis of commercial principles for business, profession or vocational income and the actual income in respect of other sources after taking into account all the expenses which could be related to the gross income under each head. After this is done and the net surplus so determined, the question of finding out the expenditure would arise. The definition of expenditure should, therefore, be modified in such a way that it means only a pure item of expenditure as such incurred and any expenditure which is related to the gross income under any one of the items of charge under the Income-tax Act should not mean an item of expenditure for purposes of the Expenditure

**Tax Act.** In other words, expenditure should mean items other than those creating asset or money or money's worth.

*Clause 3:*

This is the charging clause, and according to it every individual or Hindu undivided family, whose total income in any assessment year under the Income-tax Act exceeds Rs. 60,000 will be liable for Expenditure Tax under the provisions of the Act. An assessee's income for the purpose of the Income-tax Act is notional, and not actual. My Committee suggest that for the purpose of the expenditure tax, the actual income of the assessee alone should be taken into account and not the assessed income.

*Clause 5:*

This clause enumerates the kinds of expenditure which are exempt from the levy. Clause 5(1)(a) exempts expenditure incurred by the assessee wholly or exclusively for the purpose of his business, profession, vocation or occupation, but not including any personal expenditure. It is necessary to provide that where a part of the expenditure is incurred for the purpose of the business and part for personal purposes, that part appertaining to business should be excluded, so that the whole amount may not be disallowed.

According to item (i) of sub-clause (1) of the Clause, any expenditure incurred outside India by an assessee who is not a citizen of India from any income or capital accrued or realised outside India will not be liable to Expenditure Tax. It would appear that all expenditure incurred by a citizen of India residing abroad from his income derived from sources, whether inside or outside this country, will be hit by the provisions of this legislation. In this connection, my Committee desire to point out that there are persons who, for the purpose of their business or profession or vocation stay in foreign countries and receive income from sources in this country and/or in those countries. It will be necessary for such persons and their families to come over to India in connection with their social obligations or for other purposes, and they would be incurring heavy expenditure in connection with such journeys and purposes incidental thereto. Further, their personal expenditure in those countries would be much higher than what they would have had to spend if they were in this country. Under these circumstances, the maximum allowance of Rs. 24,000 (Rs. 36,000 as

suggested by my Committee) available to the assessee and his wife under the Expenditure Tax Bill would be inadequate for meeting the extra expenditure detailed above. My Committee, therefore, suggest that all expenditure, which they have to incur on account of the peculiar circumstances in which they are placed, should be exempt from this tax.

The following items of expenditure should also be exempted from the tax:

- (1) Medical fees and other expenses incurred for health reasons;
- (2) Contributions made to charities;
- (3) All expenses incurred on training or education either of the assessee himself or his dependents, in India or abroad;
- (4) Expenses of foreign tour for purposes of business or for attending conferences of a national or international character;
- (5) Expenses incurred on pilgrimage or for fulfilling public engagements or connected with public activities of an individual;
- (6) Funeral, birth and other reasonable and legitimate religious expenses;
- (7) Expenditure incurred in repairing or replacing immovable property or for repairing or replacing loss arising from theft, burglary, fire or flood, damage or from inadvertence;
- (8) Expenses incurred while being involved in legitimate law suits for defending person or property.

According to sub-clause (2) of this Clause, when any expenditure is not wholly and exclusively incurred for any of the purposes specified in sub-clause (1) of this Clause, the exemption would apply only to so much of the expenditure as is reasonably attributable to any such purpose. What is reasonable expenditure is a question of fact and there are bound to be differences of opinion between the assessees and the tax authorities in this regard. Any decision as to what was reasonable expenditure in regard to any particular item made by the Tax authorities may give rise to unnecessary controversy and result in hardship to the assessees concerned. When once an exemption is being made in respect of expenditure incurred with regard to any particular item, all the expenditure *bona fide* incurred for

the purpose should be considered as exempt. My Committee, therefore, submit that sub-clause (2) be omitted.

*Clause 6:*

This clause provides for certain deductions and allowances to be made for computing taxable expenditure. In the first instance, my Committee desire to point out that allowances available to a person should be proportionate to his income and should not be absolute as provided for in this clause, since persons' propensity to spend would depend upon their income.

Sub-clause (a) excludes from taxable expenditure all taxes, duties, cesses, or fees paid to the Government or a local authority but not including the amounts enumerated therein. My Committee feel that it is necessary to clarify that the word "Government" would include the Central as well as the State Governments.

According to sub-clause (c) in respect of items like jewellery, furniture, motor cars, etc., only 1/5th of their value would be excluded from taxable expenditure. My Committee urge that the items being asset items they should be left out of the purview of the Expenditure Tax altogether and only the expenditure thereon may be taken into consideration. Even otherwise, while it may be correct to take 1/5th for motor cars, in respect of furniture the lasting capacity would be for a number of years and, therefore, the inclusion should be to the extent of only 1/20th, i.e. at 5% which is the rate of depreciation and in respect of jewellery which can be used for a long time and which will have value for all times, this should not enter the purview of Expenditure taxation at all.

Sub-clause (d) provides for a basic allowance of Rs. 5,000 in respect of each dependant. As my Committee have pointed out earlier the definition of the term 'dependant' should be enlarged to include all relatives, who entirely depend upon the assessee for their maintenance. It is, therefore, suggested that the allowance of Rs. 5,000 should be made available in respect of each of such dependents and not restricted to the son or daughter alone.

*Clause 13:*

Sub-clause (3) of this Clause empowers the Expenditure Tax Officer to extend the date for the delivery of return under this Section, if he is satisfied that it is necessary to do so. The

Expenditure Tax Officer has been given a pure discretion to extend the time for the delivery of the return. My Committee suggest that under circumstances which justify extension of the time, the Expenditure Tax Officer should necessarily extend the time-limit.

*Clause 20:*

This clause provides for appeals to the Appellate Assistant Commissioners from orders of the Expenditure Tax Officers, and according to sub-clause (2) the appeal is to be presented within 30 days of the receipt of the notice of demand. My Committee suggest that the period is not adequate and should as such be extended to 60 days.

*Clause 21:*

According to sub-clause (1) of this Clause, an appeal will lie to the Appellate Tribunal within 60 days from the date on which the assessee is served with the notice of the order of the Appellate Assistant Commissioner. My Committee suggest that the period of 60 days should be increased to 90 days. There is no provision empowering the Appellate Tribunal to condone delay in filing the appeal. It is, therefore, suggested that the Appellate Tribunal should be empowered to excuse delay and accept appeals made after the expiry of the period provided in cases where the Tribunal is satisfied that there was sufficient cause for not presenting the appeal within that period.

As per sub-clause (4) of this Clause, the Appellate Tribunal will have the power to enhance the assessment in appeal. My Committee feel that the Appellate Tribunal should not have the power of enhancement.

*Clause 22:*

According to this Clause, the Commissioner may call for and examine the record of any proceedings under the Act, if he considers that any order passed therein by an Expenditure Tax Officer is erroneous in so far as the same is prejudicial to the interests of revenue. It does not appear to be fair that the powers of review vested in the Commissioner should be restricted to orders prejudicial to the interests of revenue. An assessee also should have the right to ask for review by the Commissioner when he has reason to feel that his interests have not been fully or properly taken into account in the assessment. The provision should, therefore, be amended suitably.

Again, the Clause also vests power in the Commissioner to enhance the assessment on review. My Committee suggest that the Commissioner should not be empowered with the power of enhancement.

Attention may here be invited to the Income-tax Act, whereunder the Commissioner is empowered to revise orders passed by any authorities subordinate to himself, which would mean that he could revise the order not only of the Income-tax Officer but also of the Appellate Assistant Commissioner. This Clause empowers the Commissioner only to revise the order passed by an Expenditure Tax Officer. My Committee suggest that the provision should be amended on the same lines as that contained in the Indian Income-tax Act.

*Clause 23:*

This clause requires that an appeal to the Appellate Tribunal from the order of the Commissioner should be filed within 60 days of the date on which the order of enhancement by the Commissioner is communicated to the assessee. My Committee are of the view that the Commissioner should not be empowered with any power of enhancement. In any event, the time for the filing of appeal should be extended from 60 to 90 days.

Further, there is no provision empowering the Appellate Tribunal to condone delay in the matter of filing the appeal. It is, therefore, suggested that the Appellate Tribunal should be empowered to condone delay and accept appeals made after the expiry of the prescribed period in cases where the Tribunal is satisfied that there was sufficient cause for not presenting the appeal within that period.

*Clause 29:*

As suggested while dealing with Clause 32 of the Wealth Tax Bill, a provision should be made in Clause 20 of the Expenditure Tax Bill for an appeal from an order of the Expenditure Tax Officer imposing a penalty under this clause.

*Clause 39:*

This Clause enumerates the persons who could appear before the Expenditure Tax authorities on behalf of the assessees. Income-tax practitioners have not been included in the list of persons entitled to appear before the Expenditure Tax authorities. Since the procedure for assessment, recovery and appeals

prescribed for the Expenditure Tax are substantially identical to those under the Income-tax statute and the assessments are to be made by income-tax officials ordinarily along with income-tax assessments, the Committee of my Chamber recommend that Income-tax practitioners, who have been handling income-tax assessment cases on behalf of their clientele, should also be allowed to appear on behalf of the assessee concerned, as this procedure would assist in the expeditious disposal of assessment cases, which would otherwise take longer time.

*Schedule:*

The Schedule provides for the rates of Expenditure Tax. It is presumed that the rates are based on the usual slab system. It is felt that a clarification should be made in this regard, in order to obviate chances of any future complications of harassment to the assessee. Again, the progressive rates of tax prescribed in the Schedule are very harsh. My Committee suggest that the minimum rate of tax should be fixed at 5 per cent and the maximum at 50 per cent.

Further, as taxable expenditure has not been clearly defined in the body of the Act, in order to have correct appreciation of the incidence of the Expenditure Tax levy, my Committee suggest that it is necessary to define clearly the term 'taxable expenditure' either in the body of the Act or in the Schedule annexed to it.

My Committee also suggest that it is of the utmost importance that in no event should the total levies under the various heads of Income-tax, Wealth Tax and Expenditure Tax exceed the total assessed income of the person concerned.

Under the Bill, the minimum allowance available to an assessee stands at Rs. 24,000 and the income limit exempted is Rs. 60,000. The net savings, after paying income-tax and super-tax, for an assessable income of Rs. 60,000 is Rs. 36,000. Thus, a person with an income of Rs. 60,000 can spend Rs. 36,000, whereas a person with a higher income and with a bigger saving cannot spend more than Rs. 24,000, unless he takes upon himself the liability for the expenditure tax. It is, therefore, respectfully submitted that, apart from an invidious distinction being created between the various income groups, the minimum allowance on the basis of the reasoning so made cannot be fixed at less than Rs. 36,000 and, therefore, my Committee strongly urge for the minimum allowance to be raised to Rs. 36,000, on the

distinct understanding that the various exemptions asked for are not disturbed.

My Committee have made detailed observations regarding the various clauses of the Bill, but they are of the strong view that the Expenditure Tax as such should not be imposed at all and the observations made on the various clauses have been made subject to the main contention that the imposition of the Expenditure Tax is not at all desirable and that it should not be implemented during the planning period.

In conclusion, the Committee of the Chamber would recapitulate, as under, some of the more important observations and suggestions made by them in the foregoing paragraphs in regard to the Budget Proposals of the Government of India for the year 1957-58 as also the legislations introduced in Parliament for giving effect thereto:

- (1) Taxation measures should be so regulated as to maintain, nurse and stimulate savings both, corporate and individual, instead of the same being used on a progressive scale to divert resources to the public sector only, crippling in the process the resources at the disposal of the Private Sector.
- (2) While the burdens imposed by new taxation during last 15 months are beyond the capacity of the country to bear, the future cannot be contemplated with equanimity if all the resources to cover the expected gap of Rs. 858 crores or even a very substantial part thereof would have to come out of additional taxation during the next 3 years.
- (3) The real resources available to the country are not adequate for launching upon a Plan of the present magnitude, and since the country would not be able to bear the burden of taxation at the rates contemplated as also deficit financing on any large scale, a more realistic approach in the matter is called for.
- (4) The strain and stress on the tax-paying public should not be of such a magnitude as to impair confidence and would create a feeling of utter disappointment, and if as a result of appreciation in prices the cost of the Plan goes up, the logical remedy would lie in confining the layout to more essential projects.
- (5) In fixing the layout for the Plan, no consideration has been shown for the income potential as a result of the

huge investment programme and this factor itself should warrant a proper readjustment of the Budget estimates and after taking due cognisance of such income potential the need for resort to further and heavier taxation may not exist.

- (6) Initiation of changes in tax structure in order to make tax yield more responsive to increased incomes and facilitate an orderly development of the economy would stand implemented in theory alone, inasmuch as the net result of changes being effected may ultimately be that the country gets diminishing returns and for the sole objective of making the Plan not flexible at all the very productive sources may get crippled.
- (7) Resort should have to be made to a well-regulated borrowing programme and credit terms as also the participation of the industrially advanced countries for the setting up of industries in our country as such a method would mean a rational readjustment of the Budget layout. The process of finding out more than 10 per cent of the resources for capital outlay from the Revenue resources cannot at all be justified.
- (8) There is an imperative need which has been stressed from different quarters recently for keeping non-developmental expenditure to the minimum level possible so as to make increasing resources available for developmental activities.
- (9) Constant vigilance, critical analysis and continuous economy in connection with the cost of carrying on the administration of the country and that of running the Plan are the inevitable needs and responsibilities of the hour.
- (10) On the economic position being reviewed from time to time, and a proper readjustment and layout being made of the Plan fulfilment and the budgeting of the relevant items, the need for resorting to heavy additional or fresh taxation may not exist and, therefore, a realistic approach and a reasoned consideration is called for.
- (11) With the heavier and additional taxation corporate enterprise in the country would find it extremely difficult to function properly, let alone the question of incentives to save and invest being provided. If the present unfavourable climate for capital formation in the country

continues it may have serious repercussions on the successful implementation of the Plan itself.

- (12) Dividend income, which is the produce of equity capital and which is the life-blood of corporate enterprise, should be treated as earned income and taxed as such.
- (13) Ploughing back of profits is no doubt essential and if for facilitating such ploughing back excess distribution of dividend is penalised, there is all the more reason for the total abolition of the tax on bonus issues.
- (14) In any event, the simultaneous levy of a tax on excess distribution and on bonus issue is a contradiction in terms and cannot be justified on any fair and reasonable grounds.
- (15) The reduction of the distributable minimum to 45 per cent made available to Sec. 23A Industrial companies should also be given to trading companies coming under the purview of that Section and carrying on such business which help in earning of foreign exchange.
- (16) As regards the proposed tax on wealth its levy is neither wise nor justified, particularly when rapid economic development of the country is the prime need of the hour.
- (17) Wealth Tax on companies being a tax on productive capital will not only divert productive resources from the Private Sector to the Public Sector but will also act as a damper on corporate investment as a whole and should not therefore be imposed.
- (18) The imposition of wealth tax on corporate undertakings will seriously deplete their financial resources and the impact of these new burdens will not only cripple their competitive strength but may also in cases like Shipping Companies, affect their very existence and should therefore be dropped altogether.
- (19) The imposition of the Wealth Tax on Individuals and Hindu Undivided Families can, in any event, be thought of only after a very substantial reduction in the personal rates of taxation has been made and such a levy can, if at all, be justified only with the rate of the highest slab being brought down to the maximum of 50 per cent.

(20) If, however, the Wealth Tax should remain, the following amendments are to be made in the Wealth Tax Bill:

- (a) Wealth usefully employed for industrial and incidental purposes should remain exempt whether tax be on individuals, Hindu Undivided Families, Partnerships and Associations on the one hand or on Companies on the other;
- (b) In addition to companies coming under the purview of Sections 15C & 56A of the Indian Income-tax Act being exempted from the levy, it is necessary to exempt the shareholders of such companies also from the levy in regard to their respective shareholdings;
- (c) The test for determining the imposition of wealth tax on companies should not be whether the shares are held in the hands of particular individuals but whether the wealth of the respective companies is employed for industrial, commercial or such incidental purposes which are contributing to the economic progress of the country and if the assets are so employed, the respective wealth should remain exempt from the purview of the Wealth Tax legislation;
- (d) The valuation of business assets should be on the basis of the cost less all the depreciation allowable for it under the Income-tax Act. In respect of non-business assets the proper method should be to take the cost or market value whichever is lower and in case the Department desires to put a higher value the assessee should have the option of selling that property or asset in question to Government at the value fixed by Government for purposes of wealth tax levy. Tax on the basis of market values will be an amount of collection out of all proportion and may have its impact on the very existence of industries in this country;
- (e) In case of business and other assets, the tax should not be levied unless such assets earned a net profit of at least 6 per cent on their capital value. The value of goodwill should be excluded in calculating net wealth unless the goodwill amount is actually realised;

- (f) Public charitable trusts, non-profit-making associations, whether registered under the Companies Act or not, which have no business activity as such, should be exempted from the provisions of the legislation under separate section;
- (g) Foreign property owned by Indian citizens whether agricultural or not, should not be subject to this levy. In any event, exemption should be given in respect of properties situated outside India from which the owners are not able to receive the benefits due to remittance difficulties;
- (h) In all cases where the assessee is regularly preparing balance-sheets the valuation date should conform to the date to which the balance-sheet is prepared, whatever the previous year for other sources of income of the assessee;
- (i) Where assets are held by court of wards, administrator-general, trustees, etc., and wealth tax levy is made on them in respect of such assets, they should be given a first charge on the income of the asset for payment of the tax due on the same;
- (j) Liability of agents in respect of properties owned by persons not resident in India should extend to a resident agent only where the agent in question has absolute control over the property or wealth as if it belonged to him;
- (k) With regard to any dispute of valuation, the same should be referred to independent persons as arbitrators and the proceedings conducted under the Indian Arbitration Act;
- (l) The power of review vested in the Commissioner should not be confined to cases where the decision of the Wealth Tax Officer has been prejudiced to revenue but should also extend to all cases where the assessee feels that justice has not been done to him;
- (m) Right of appeal should also be provided from order imposing a penalty in the course of recovery of the wealth tax due from an assessee;
- (n) Income-tax practitioners should be allowed to appear before the Wealth Tax Authorities;

- (o) The minimum net wealth not liable to tax should be increased to Rs. 5 lakhs in the case of Individuals, Rs. 7 lakhs in the case of Hindu Undivided Families and Rs. 10 lakhs in the case of Companies. As in the Estate Duty Act over a particular range assessment of wealth tax should be made by Inspecting Assistant Commissioners and above a still further range by Commissioners;
- (p) The most inequitous part of the wealth tax levy being the incidence of double taxation, with a view to remove this obnoxious feature the concession contemplated under Rule 2 of the Schedule should also be made available in respect of companies, public as well as private, including Sec. 23A Companies;
- (q) The Wealth Tax being a totally new measure great care should be taken in its administration. Officers below the rank of Commissioner should not be vested with any powers of search and as far as possible check up of wealth should be done by resort to voluntary declarations and income-tax assessment records and coercive methods should not be employed for this purpose.
- (21) The Expenditure Tax, being a measure having no parallel in the tax system of any country and being very difficult to handle administratively, the imposition of the same will not at all be desirable and should be dropped altogether.
- (22) If, however, the levy is to remain, the following amendments require to be made in the relevant Bill:
  - (a) The definition of the term "Expenditure" should be modified in such a way that it means only a pure item of expenditure as such and any expenditure which is related to gross income under any one of the items of charge under the Income-tax Act should not mean an item of Expenditure. In other words, expenditure should include, only items other than those creating an asset or money or money's worth;
  - (b) Definition of the term "Dependent" should be extended so as to include parents, brothers, sisters and other relations who entirely depend upon the assessee for their means of livelihood;

- (c) All expenditure incurred on relatives, whether they be near relations or not, should be excluded from Expenditure Tax;
- (d) The items of expenditure listed below should also be exempted from this tax:
  - (i) Medical fees and other expenses incurred for health reasons;
  - (ii) Contributions made to charities;
  - (iii) All expenses incurred on training or education either of the assessee himself or his dependents, in India or abroad;
  - (iv) Expenses of foreign tour for business purposes or for attending International Conferences;
  - (v) Expenses incurred on pilgrimage or for fulfilling public engagements;
  - (vi) Funeral, birth and other religious expenses;
  - (vii) Expenditure incurred in repairing or replacing of immovable property or for repairing loss due to theft, burglary, fire or flood, etc.;
  - (viii) Expenses incurred for defending person or property in legitimate law suits;
- (e) Items like Jewellery, Furniture, Motor-cars, etc., in respect of which only 1/5th of their value is to be excluded from taxable expenditure, being asset items, should be left out of the purview of the Expenditure Tax altogether and only the expenditure thereon may be taken into consideration;
- (f) The power of review by the Commissioner should extend to all cases of injustice and not confined to cases where it is prejudicial to revenue;
- (g) Minimum allowance available to an assessee should be raised to Rs. 36,000 from Rs. 24,000 on the distinct understanding that the various exemptions asked for are not disturbed.

The Committee of the Chamber respectfully request that the Government of India will be pleased to give their very earnest and careful consideration to the comments and observations made in the preliminary paragraphs on the general aspects and trends of Government's Taxation Policy as also the views and suggestions offered on the different provisions of the individual

Bills introduced to give effect to the Taxation proposals of the Government during the year 1957-58.

**APPENDIX**  
**THE SECOND FIVE-YEAR PLAN**  
**Finance for the Public Sector**

<b>Estimates :</b>	<b>Rs.</b>	<b>Rs.</b>
(1) Surplus from current revenues @ existing (1955-56) rates of taxation .. 350 crores		
Additional taxation .. 450 "	800 crores	
(2) Borrowings from the Public .. 1,200 "		
(3) Other Budgetary Resources .. 400 "		
(4) Resources to be raised externally .. 800 "		
(5) Deficit Financing .. 1,200 "		
(6) Gap—uncovered .. 400 "		
Total (original) ..	Rs. 4,800 crores	
Revised to ..	Rs. 5,400 crores	

**Shortfalls :**

Owing to revised estimate of the Plan to Rs. 5,400 crores ..	Rs. 600 crores
Owing to revision in estimate of Deficit Financing from Rs. 1,200 to Rs. 800 crores ..	400 "
In borrowings, loans, small savings in the first 2 years of the Plan ..	158 "
Original Gap left uncovered ..	400 "

**Less :**

Extra resources that would be available by additional taxation measures already introduced since the beginning of the Plan ..	<b>Rs.</b>
350 crores	
From additional taxation by the States .. 150 "	
From additional Foreign Aid .. 200 "	700 crores
Balance to be covered ..	Rs. 858 crores

## APPENDIX 10

### Enquiry by the Finance Commission

*Letter No. 916 dated 18th April 1957 from Chamber to the Secretary, Finance Commission.*

I am desired to refer to the Press Note issued by the Commission dated the 31st July 1956, inviting the public to make observations and suggestions on the problems to be examined by the Commission in the light of the terms of reference to the Commission.

In terms thereof the Commission has to make recommendations to the President as to:

- (a) the distribution between the Union and the States of the net proceeds of taxes which are to be, or may be, divided between them under Chapter I of Part XII of the Constitution and allocation between the States of the respective shares of such proceeds;
- (b) the principles which should govern the grants-in-aid of the revenues of the States out of the Consolidated Fund of India;
- (c) the continuance or modification of the terms of any agreement entered into by the Government of India with the Government of any State specified in Part B of the First Schedule under clause (I) of Article 278 or under Article 306; and
- (d) any other matter referred to the Commission by the President in the interests of sound finance.

The other matters referred to this Commission under (d) above, are—

- (i) the sums which may be prescribed under Article 273 as grants-in-aid of the revenues of the States of Assam, Bihar, Orissa and West Bengal, in lieu of assignment of any share of the net proceeds in each year of export duty on jute and jute products to those States;
- (ii) the States which are in need of assistance by way of grants-in-aid of the revenues of those States under Article 275, and the sums to be paid to those States, having regard, among other considerations, to:
  - (a) the requirements of the Second Five-Year Plan, and

- (b) the efforts made by those States to raise additional revenue from the sources available to them;
- (iii) the principles which should govern the distribution under Article 269 of the net any financial year of estate duty in respect of property other than agricultural land, levied by the Government of India, in the States within which such duty is leviable; and
- (iv) the modifications, if any, in the rates of interest and the terms of repayment of the loans made to the various States by the Government of India between the 15th day of August 1947 and the 31st day of March 1956.

It will be observed that your Commission has been required to examine and make recommendations on the questions referred to the First Finance Commission, and certain additional matters as contained in the terms of reference No. (D).

My Committee particularly welcome the specific enquiry in para II of the terms of reference, viz. the determination of the basis and the extent of assistance required by various States in the context of their growing responsibility for the successful implementation of the tasks assigned to the States under the Plan. They believe that the efforts made by the States to raise the maximum revenue from their own resources is a factor of vital importance in the determination of this basis and the extent of assistance has to be related to the States' capacity to tap effectively the sources of revenue already available to them. The requirements of the State judged either by the numerical strength of the population or by the degree of backwardness cannot be the sole consideration, or even the prime factor, in determining the extent of assistance because while it does not contribute towards self-effort, it certainly gives room for indolence, if not inefficiency. The recommendations of the First Finance Commission, viewed from this angle, have not been very helpful to States which have exerted their utmost to rely on self-help and to reach the targets of revenue realisation set for them by the Planning Commission. This is particularly so in the matter of allocation of shares to different States in the revenue from income-tax. Considerations which would apply to grants-in-aid were applied to the distribution of taxes tending to make the basis of allocation unscientific. Bombay is an example of a State which has done its best to match the help it has received from the Centre by creating its own resources. Yet its ever increasing efforts at self-help and self-dependence have not evoked that degree of response as it would justifiably

expect. My Committee will deal with this aspect more comprehensively at a later stage. At this stage they would only place on record their appreciation of the fact that this aspect has been specifically referred to the present Finance Commission and express the hope that the Comission will give full consideration to the same and evolve a just and scientific pattern of distribution of resources among the States giving due emphasis to various factors and aspects relevant to the problem.

The Committee of the Chamber would now proceed to make their observations and offer suggestions with regard to some of the issues raised by the various terms of reference.

*Distribution of Taxes on Income other than the Corporation Tax:*

The problem of determining the correct basis of allocation of revenues derived from taxes of income other than the corporation tax, as between the Centre and the constituent States of the Union has always bristled with difficulties in a country having a federal constitution. The gradual evolution of the constitutional pattern leading to the Government of India Act of 1935, the dawn of independence in 1947, which simultaneously involved the partition of the country and the subsequent adoption of the Constitution of India, striking a fine balance between the unitary and federal forms of Constitutions, have, in the case of our country, made the task of securing a judicious balance between the competing claims of the Centre and the States on the one hand, and the States *inter se*, all the more difficult. The complexity of the problem is evident from the fact that the various Committees that had in the past examined the problem, have not been able to evolve a basis and criterion which could be uniformly applied for the purpose of allocation of Income-tax.

The problem raised by this term of reference is two-fold; one is the determination of the respective share of the Centre and the States in the distributable revenues derived from taxes on income other than the corporation tax, and the other is the allocation of the divisible pool among the various States.

An inquiry into the relative needs of the Centre and the provinces was carried out by Sir Otto Niemeyer in 1937; the provincial shares in the divided heads of Central Revenue and the subventions to some of the provinces were fixed by an Order-in-Council, which, subject to certain modifications during the war, remained in operation till 15th August 1947. The

Niemeyer Award stipulated that the full 50 per cent share will devolve after the lapse of 10 years, and the percentage distribution of the provincial share from the divisible pool was prescribed as under:

Madras	...	15%	Bombay	...	20%
Bengal	...	20%	Punjab	...	8%
Assam	...	2%	Bihar	...	10%
Sind	...	2%	C.P.	...	5%
Orissa	...	2%	N.W.F.P.	...	1%

The Expert Committee on Financial Provisions of the Union Constitution (1947), had emphasised that the main problem was to make available to the States sufficient funds for the successful implementation of their schemes of development and guided by that consideration had decided that the allocation of the taxes on income between the Centre and the States should be on the basis of 40:60. In regard to the question of allocation of shares of income-tax among the States, the Committee, after taking into consideration the various factors, such as the basis of collection, population, the needs of the States in the context of their financial requirements, decided that the divisible pool, i.e. 60 per cent of the net proceeds should be distributed among the States on the basis of factors weighted according to the following percentages:

1. Population	...	...	20%
2. Collection	...	...	35%
3. Adjustment necessary for mitigating hardships	...	...	5%

In the meanwhile the allocation of the share released by the States which as a result of partition, ceased to be Indian territory, began to engage attention. The Government of India entrusted this task to Shri Chintaman Deshmukh who gave a binding award, in terms of which the net proceeds derived from taxes on income other than the corporation tax were continued to be divided equally between the Centre and the States, the allocation amongst the States being based on population, some weightage being shown to the financially weaker States.

The First Finance Commission, in deciding upon the share of the Centre and the States, struck a compromise between the percentage recommended by the Expert Committee of the Constituent Assembly on the Financial Provisions of the Union Constitution, viz. 40:60, and that by the Deshmukh Award, viz. 50:50 by raising the States' share to 55 per cent.

In justifying the decision that the Centre and the States should share the revenues derived from taxes on income in equal proportion, Sir Otto Niemeyer had observed that important aspects such as the strengthening of the financial stability of the Centre, the future needs of the States and the need for maintaining a reasonable adjustment of the relative burdens between the various units had to be taken into account and it was not right that any particular criterion or factor should be given a preponderant importance in deciding upon the manner in which the Centre and the States should share these resources. The very factors which Sir Niemeyer felt should influence the decision in regard to the distribution of the income-tax between the Centre and the States, now suggest that the States' share of revenues on income-tax should be raised to 60%. Even considering the enormous developmental expenditure that the Central Government has had to incur during the last few years, the finances of the Centre are not such as to raise any serious misgivings. As against this, the needs and requirements of the States in fulfilling their part of the obligations under the planned programme of development are ever increasing, and this is obvious from the deficits revealed by the budgets of the States during the last few years. The time therefore is overdue for a proper appreciation of this aspect and to permit the States, as recommended by the Expert Committee on financial provisions, to share the net proceeds of taxes on income other than the corporation tax to the extent of 60%.

The next question to be decided upon as required by the second half of this terms of reference is in regard to the basis on which the States' share of income from taxes should be distributed, and the various factors which should be taken into account in determining that basis. The factors which may be taken into account for this purpose are as follows:

1. Collection of income-tax in various States.
2. The amount of income-tax realised in respect of incomes wherever earned of individuals in different States.
3. Collection of income-tax in the various States adjusted with reference to the origin of income.
4. The relative population of each State.
5. The needs of the State.

It is extremely difficult to decide upon one single factor which can be uniformly applied for purposes of allocation of

share of income-tax. The First Finance Commission recommended that the distribution of the States' share among the various States should be:

1. 80 per cent on the basis of population;
2. 20 per cent on the basis of collection of income-tax of the States.

Various expert examinations of this problem have been undertaken at the instance of the Government of India during the post-war years, and the trend of opinion revealed by such examinations would suggest that in any objective appraisement of the constitutional provision in terms of which this question has to be decided, attributability rather than needs should be the guiding factor. In other words it is not the population of a State but the extent of its contribution to the pool of income-tax which should have a preponderant role to play in deciding its share of the income-tax. Thus the Expert Committee on the Financial Provisions of the Constitution in recommending the following basis:

- 20 per cent on the basis of population,
- 35 per cent on the basis of collection,
- 5 per cent adjustments,

observed that "the objection to this basis (needs) is that a share is something to which the Province is entitled to because its citizens or things have in some measure contributed to the fund while the grant is something given to it without regard to its contribution to the Centre or any common pool".

It will thus be seen that the First Finance Commission has over-emphasized the factor of population in deciding upon a State's share of income-tax. The State of Bombay is naturally not happy over this recommendation of the First Finance Commission. In fact ever since the Niemeyer Award the State has continued to nurse a feeling of grievance on this score, and the State Government has been pleading on successive occasions, that in the light of the contribution that it makes to the Central Pool, it is entitled to a much larger share than that decided upon by the Central Government from time to time. The pleadings of the State Government have been in vain. Under the Niemeyer Award the States' share of the divisible pool was 20%. In 1948-49 Bombay's contribution represented over 42%, but as per the *ad hoc* arrangements made after the partition this percentage was increased only to 21. The Deshmukh Award continued this arrangement. The First Finance Com-

mission however has brought this down to 17.5 per cent and the interim recommendations of the present Finance Commission by fixing the share of the enlarged Bombay State after the reorganisation of States at 18.91 per cent have only accentuated the feeling of disappointment that notwithstanding the increasing contribution that it is making to the Central Pool in the shape of income-tax revenues, its claim for a just, fair and reasonable share continues to be ignored. My Committee feel that, viewed from any angle, the case for a substantial increase in the share of Bombay to the total revenues from income-tax is irresistible. Take for example the question of population. Under the Niemeyer Award, the State's share was fixed at 20% when the total population of the State was about 2 crores. By the time of the Deshmukh Award the population had increased to 3.5 crores. As a result of the reorganisation of States, the Districts of Karnatak, which formed part of the pre-reorganisation of Bombay State, have gone out. The former Part C State of Kutch and Saurashtra, the Vidarbha region of the former Madhya Pradesh and the Marathwada region of Hyderabad, have however been integrated in the Bombay State, which take the total population of the Bombay State to 4.8 crores. And yet the interim recommendation of the present Finance Commission fixes Bombay State's share at 18.91 per cent.

The contribution of the reorganised State of Bombay is estimated as being over 50 per cent of the divisible pool. My Committee therefore have no hesitation in expressing the view that from the considerations of both attributability, i.e. collections and the population, i.e. needs, the case of Bombay for an increased share in the income-tax allocation rests on sure grounds.

In emphasizing these aspects my Committee would impress upon the Commission the fact that commerce and industry play a dominant role in the economy of the State. The main contribution of the people of the State to the Central Exchequer is made up of income-tax and customs duties which form a sizeable portion of the revenues of the centre, and yet compared to that contribution, the advantage derived therefrom by the States' people cannot be deemed to be adequate or satisfactory.

The new enlarged State that has come into being, is enormous in size with a population of 4.8 crores, the second largest in the country. In the economy of the State agriculture as well as industry play an important part, and both together have assisted the phenomenal growth of trade and commerce.

Among the agricultural products commercial crops such as cotton, oilseeds, sugar, tobacco are in abundance. This explains the importance of manufacturing activities in cotton textiles, vanaspati oils, sugar, tobacco, etc. Besides these, some of the other industries of which a special mention should be made are diesel engines, soaps, electrical motors, bicycle manufacture and confectionery. The industrial importance of the State has been particularly increased since the setting up of the oil refineries in Bombay.

With the integration of the Vidarbha region, the State has secured important sources of supply of minerals like gypsum, bauxite and China clay. The condition of availability of these mineral resources within the region would further help the tempo of industrial activity made possible by the setting up of new industries.

The State again is the nerve centre of such important economic activities as Banking and Insurance. It can claim within its boundaries two important ports, viz. Bombay and Kandla which is fast coming up. With the assistance of these two ports, the State will be able to claim over 40% share in the overseas trade of the country.

Thus the abundance of the natural resources, fairly large agricultural production and concentration of many industries have created the necessary climate for trade and commerce and the same has come to be the mainstay of the economy of the State. This circumstance has enabled it to be in a position to make a handsome contribution to the Central revenue in the shape of customs duty, union excises, corporation tax, tax on incomes as well as Estate Duty. People of the State however are not able to derive the full benefit of the prosperous conditions in the State as these measures of taxation fall under the Central head. It is only emphasizing the obvious to say that the people of the State are justified in expecting that the State should be enabled to increasingly share in the Central revenues in which their contribution is growing from year to year. Thus the case for raising the income-tax allocation to Bombay State is again reinforced.

The preponderance of industry and trade in the State of Bombay have on the other hand created certain special problems for the State. It has given rise to a number of towns and cities, with relatively large populations, the more important among them being Bombay, Ahmedabad, Poona, Sholapur, Surat,

Baroda, Kolhapur, etc. With the merging of the new territories in the reorganised State, industrial towns like Nagpur, Jamnagar, Rajkot and Bhavanagar, each with a population of over a lakh of people, have been included in the State. Many of these centres, in view of their thriving industries, provide ample scope for employment opportunities. Existence of conditions created by the concentration of population in a large number of cities naturally create a crop of problems calling for attention. My Committee, while not wishing to enter into a detailed discussion of this aspect, would like to bring to the notice of the Finance Commission the urgent and imperative need to tackle the same in a manner conducive to the betterment of the working conditions of the people concerned. Problems such as maintenance of law and order, hygienic living conditions, slum clearance, etc. are of greater intensity and magnitude in industrial areas, owing to over crowding and pressure of population calling forth colossal efforts and a huge expenditure for their solution and the people of the State naturally expect that the State should be able to derive a greater benefit out of the proceeds of taxes on income and other imposts contributed by them through their pursuits and avocations. As otherwise, the very reasons which enable them to contribute largely to the Central fisc may, ironically enough, be responsible for imposing on them greater tax burdens at the hands of the State Government in its efforts to find resources to meet expenditure necessitated by conditions above referred to.

The State's case for an increase in the allocation of taxes on income is also strengthened from the considerations of the efforts that it has made to raise its own resources to the extent envisaged by the Planning Commission towards fulfilment of the schemes of development assigned to the State under the First Five-Year Plan. The First Five-Year Plan for the State of Bombay envisaged a total outlay of 14,643.5 lakhs of Rupees. Out of this the State had expected to find finances to the extent of Rs. 14,631.31 lakhs, which *inter alia* was expected to be out of the finance raised by additional taxation of the order of 23.5 crores. Of this the State Government was expected to levy additional taxation to the extent of 15 crores and the balance was to be met from the State's share of centrally collected taxes like Estate Duty, taxation on inter-State transactions, etc. It is well known that the contribution received by the State from the levy of Estate Duty has fallen below the expectations. Measures for centralisation of the sales tax on inter-State transactions have been taken only recently and the Act is now to be

enforced only from 1st of July 1957. The State therefore could not invoke the assistance of revenues derived from this source, and perforce it had to fall back on its own resources. All the same it has not only made an effort to raise the necessary revenue through additional taxation measures but has actually exceeded the targets of revenue realisation laid down by the Planning Commission. In the result the State has been enabled to surpass the amount of planned expenditure envisaged to be made by the State during the period of the First Five-Year Plan. Among the taxes, the rates of which have been raised during the Plan period, mention may be made of the taxes on motor vehicles, sales tax on petrol and the general sales tax. This additional effort has to be viewed in the context of the fact that the budget of the State has considerably expanded over the last 17 years and the pattern and composition of the same have undergone substantial changes. After a series of surplus years from 1940-41 the State Government had been confronted with the position of having to make up small deficits from the year 1949-50. The State, however, has always made an effort to balance its budget and in order to meet the budgetary gaps the State Government resorted to the expedient of levying fresh taxes and/or stepping up or increasing the rates of existing taxes from time to time. Increases in almost all the items of taxation have been going up substantially. The *per capita* taxation, Central, State and local, is Rs. 44 in the State which is 75% more than the all-India average. The duty rate on electricity consumption, especially by industrial units, is higher in Bombay State as compared with the other States thus placing the industries here in a position of comparative cost disadvantage. Incidence of motor vehicles taxation in India is the highest in the world. Similarly the stamp duty rate in Bombay State is the highest in the country, which incidentally has led to certain amount of diversion of trading activities from Bombay affecting the forward market transactions.

In the light of this position it is but reasonable to expect that the allocation of the State's share of taxes of income other than corporation tax would be based on a proper appreciation of the efforts made by the State to raise its own resources to the extent possible. The people of the State are naturally justified in expecting some relief from the high rate of taxation that prevails in Bombay State. In any case, they would be justified in their expectations that at least circumstances would be created which would obviate the necessity for any large-scale additional taxation measures by the State Government. My

Committee, therefore, request that the Finance Commission while taking into consideration the question of allocation of shares to the States out of the proceeds of taxes on income will do full justice to this factor.

There is another factor arising out of this which also needs to be prominently taken into consideration. As they have already pointed out in the foregoing observations the State of Bombay has not only fulfilled but exceeded the target of additional taxation during the period of 5 years. The same happy position does not obtain *vis-a-vis* many of the States and their efforts made for securing additional resources through fresh taxation measures have lagged far behind the targets laid down by the Planning Commission for the purpose. At the same time as a result of the recommendations of the First Finance Commission, which, as already pointed out, has overweighted the consideration of the population, these very States were recipients of a larger share of the allocations from the taxes on income. Here therefore a curious position arises in that the State which has endeavoured its utmost to put in efforts for securing self-dependence to the extent decided upon by the Planning Commission, actually fails to secure enough justice at the hands of the Finance Commission in the matter of allocation of shares from income-tax and the States which got the larger benefit as a result of the recommendation of the Commission, have failed to make any serious effort to raise their own resources. My Committee would like to point out that if this position is allowed to continue it will have a very disheartening effect on the efforts of those States which have tried to abide by the guidance of the Planning Commission. My Committee therefore request the Commission to give serious consideration to this aspect also.

Another question for consideration which is germane to this aspect is the factor of performance of the States in the matter of execution of various developmental schemes and projects with the financial assistance secured from the Centre. Factors such as needs of the States with reference to population or the backward conditions of the region therein have, in the past, weighed in the determination of the quantum of financial assistance by the Centre to the States. While at the earlier stage perhaps it was inevitable that the question as to the quantum of financial assistance required by the State was decided upon by taking into consideration such factors as needs and conditions, my Committee believe that, in the examination of this aspect, the Commission should, at the same time give prominent

consideration to the factor of performance, i.e. to what extent the recipient States were able to absorb the Central assistance and utilise the same for various developmental schemes. This aspect, my Committee believe, should receive closer attention while examining the question of future claims of the States to financial assistance from the Centre. Instances are not wanting wherein some of the States, having received a handsome financial assistance by way of grants, have not been able to gainfully utilise the funds made available to them by the Centre to any substantial extent. Consequently the funds have remained idle which could more appropriately have been diverted to other States. In short, therefore, the determination and efficiency with which a State, recipient of financial assistance from the Centre, implements developmental schemes, thus securing fruitful utilisation of the financial assistance extended by the Centre, should be an important consideration that should weigh with the commission in the determination of the claims of the various States for Central assistance, particularly to assistance in the form of grants in aid of revenues.

#### *Estate Duty:*

When the Estate Duty was levied in 1953, it was expected that the same will constitute an important source of income to the State. Unfortunately, this expectation has not been fulfilled and the Estate Duty which was expected to yield Rs. 4.5 crores to the State of Bombay has, in actual practice, yielded not even Rs. 50 lakhs upto 1955/56, during the First Five-Year Plan period. According to the terms of reference, the Finance Commission is to lay down the principles which should govern the distribution, under Article 269 of the Constitution, of the net proceeds of any financial year of Estate Duty in respect of property other than agricultural land levied by the Government of India in the States within which such duty is leviable. Till the formulation of the principles of distribution by the Finance Commission and the approval of the same by the Parliament, the Government have adopted a provisional basis on par with taxes on income other than Corporation Tax whereby 80% of the Duty is distributed among the States according to population and 20% according to collection. In this connection, it may be relevant to point out that this tax is to be assigned to the States though for purposes of administrative convenience, it is being levied and collected by the Centre. The present provisional basis equates it with the grants-in-aid basis which is both unfair and unjust and not in consonance with the spirit of the relevant provision of the Constitution.

*Distribution of Excise Duties:*

The First Finance Commission had recommended that 40% of the revenue derived from the Central Excise duties on tobacco, matches and vegetable products should be distributed among the States on the basis of their respective population. This was in terms of the Article 272 of the Constitution providing that, with the consent of the Parliament expressed through an Act the Union Excise duties could be shared by the States even though levied and collected by the Centre.

It will be observed that the First Finance Commission in their recommendation on this subject suggested that only in respect of the three of the Central excises should the States be eligible to share the revenues with the Centre. They had observed that "It is inadvisable at any rate to begin with, to divide too many excises. The selected excises should be such as are levied on commodities which are of common and widespread consumption and which yield a sizeable sum of revenue for distribution". Viewed from this consideration, my Committee believe that there is scope for enlarging the list of Union Excises which may be required to be distributed to the States. Cotton cloth, sugar, are articles of general consumption yield from the excise duties on which is quite substantial. It is therefore suggested that the excise on these items should also be distributable to the States.

The excise duty is in effect a tax on consumption and the quantum of contribution by the various States will therefore depend more on the extent of the consumption than the strength of its population. In that view of the case it is felt that the States should be eligible to an increased share in revenue derived from excise duty on centrally excisable items that may be decided upon, the share of each State in the distributable proceeds being determined with particular reference to the extent of consumption of an excisable article in a particular State. In fact the First Finance Commission had agreed that consumption should be the basis for allocation among the States of the excise revenues. The Commission was however handicapped in that the exact data of consumption of the articles concerned was not available and therefore had to fall back on the basis of population for determination of a State's share in the excise duties. It had however suggested that steps should be taken to collect the necessary data. My Committee trust that accordingly, detailed information on this aspect would now be available to the Commission, and on that basis, the Commission would be able to decide upon the

share of such States with the revenues from excise duties mainly on the basis of consumption. In this connection it is relevant to point out that it has been decided to replace State sales tax on certain items by a Central surcharge on excises, the revenues available being distributed to States on the basis of consumption with the proviso however that each State will have as its share revenues not less than the existing collections by way of sales tax on these commodities. The Committee suggest that the share in the excise revenues of the individual commodities specified for the purpose would be determined with special reference to this aspect.

*Grants-in-aid and Loans:*

One of the other questions whereon the Commission have to make recommendations is that of the principles which should govern grants-in-aid to the States out of the Consolidated Fund of India, in terms of the term of reference (2) and (4). Claims for grants-in-aid are advanced for purposes of balancing the budget, bringing up the level of administration, raising the standard of social services and development of backward regions, and for implementing some of the Directive Principles of State Policy incorporated in the Constitution. My Committee have already pointed out, in the above observations, the needs and requirements of the reorganised Bombay State. With the integration of the new regions in the greater Bombay State, problems such as bringing the scales of pay and dearness allowance on par with those existing in the areas before the reorganisation of the State, loss of revenue consequent upon extension of the Prohibition Policy to the newly merged areas where prohibition was not there previously, etc. have all come to the fore. Moreover, even though data is not available, it is well known that the regions, which have come into the fold of Bombay State, like Kutch, Saurashtra and Marathwada, are chronically backward areas and have on that account faced recurring deficits since long. In fact, Saurashtra expected to receive sizeable assistance from the Centre, which did not fructify. While it may be true that the separation of Karnatak from Bombay State might have meant some measure of relief to the extent of the deficits faced by that region, the relief is likely to be nullified, or even offset, by the additional financial requirements necessitated by the inclusion of the abovementioned backward areas in the State. Even if, therefore, the State is in a position to adhere to the schedule of additional taxation as advised by the Planning Commission, it will face real financial difficulties, un-

less adequate assistance in the shape of grants is forthcoming from the Centre.

Over and above the grants, the States are also receiving grants for specific items of expenditure, and the principle of matching of efforts is mainly taken into account in making the latter grants. My Committee have no particular observations to make on this subject and they are in general agreement with the principle enunciated. The only suggestion they would like to offer is that for an industrially advanced State, the need for providing improved communications and other economic overheads is of fundamental importance. A huge leeway still remains to be covered in constructing proper roads with a view to linking up the vast rural areas in the interior with the main urban and industrial centres. For this purpose, the grants which the State Government receive from the Central Road Fund are not adequate to meet the requirements of the situation. These grants are made from the funds earmarked out of the proceeds from the Duty on Petrol. Allocations from the fund were formulated on a basis determined at a time when the duty on Petrol was much less than the present yield. The duty on Petrol having been substantially raised in recent years, it stands to reason that the allocations from the Central Road Fund should be suitably enhanced, making it possible for the States to receive larger assistance on that score, regard being had to the Petrol consumption in the respective territories.

As to the question of loans from the Government of India to the State Governments, these are generally given for meeting the expenditure on rehabilitation, including housing for displaced persons, industrial housing, irrigation and electricity projects, loan assistance to industries, community projects and national extension service and local works. It is a significant fact that the Government of India are placed in a better position in respect of raising of loans inasmuch as they are able to command investors to a greater extent *vis-a-vis* the States. Under the circumstances, it has been the usual feature that the States have to fall back on the Government of India for assistance in shape of loans in addition to their borrowing from the public. The loans received by the State Governments from the Government of India are usually on an average rate of 4% interest redeemable in an average period of 10 to 12 years.

My Committee understand that the State Governments have to face considerable difficulties in meeting their obligations particularly on account of the heavy debt service charges pay-

able to the Government of India. It has been the common experience that on any one of the items of expenditure, whether it be rehabilitation, irrigation projects or housing, none of these items yield a rate of return sufficient to meet the debt service charges. With the sizeable increase in the quantum of loans to the States, it is understood that the interest charges have risen from Rs. 3.3 crores in 1950-51 to Rs. 33.8 crores in 1956-57. In this context, it is significant to note, as pointed out by the Finance Minister of Bombay, that the interest charges of loans borne on Central Revenues, have actually fallen from Rs. 32.8 crores in 1950-51 to Rs. 30.4 crores by 1956-57. It is maintained by the Finance Minister "that loans to the States have been provided from deficit finance during the First Plan, estimated at Rs. 400 crores and from foreign aid—including donations which are free of interest or of repayment—amounting to Rs. 203 crores". If the above is correct, there is a strong case, in equity and fairness, for Central loans being granted at a much lower rate of interest and for spreading over the maturity period of such loans for a larger number of years.

My Committee hope that the Finance Commission will give their careful consideration to this very important aspect and devise ways and means whereby a fair and equitable method is evolved for purposes of grant of loans to the States.

In conclusion my Committee request that in the examination of the matters covered by the terms of reference, the Finance Commission will give due consideration to the suggestions made herein.

## APPENDIX 11

### **Procedure re : Introduction of, and eliciting Public Opinion on, Government Bills**

*Letter No. 1909 dated 4th September 1957 from Chamber to The Cabinet Secretary, Government of India.*

The Committee of the Indian Merchants' Chamber desire to bring to the notice of Government the grievance that is largely felt by the public in their not being able to give proper and adequate consideration to the different legislative measures that are being introduced in Parliament from time to time by reason of the fact that in a majority of cases very little time is available between the introduction of the relevant Bills in and

the passage thereof by Parliament. While my Committee are aware and appreciate that Bills, which are considered by Government of public importance, are being circulated for eliciting public opinion, various measures of considerable import, especially those in the domain of finance, commerce, industry and labour, are being passed very often without affording sufficient time and opportunity to the general public to place before Government their considered views and observations, particularly in regard to the hardships and difficulties that would emerge from the practical operation of such measures.

Further, many a time, copies of the Bills, on which the interests affected would like to submit their comments and suggestions, are not made available in important cities and upcountry centres for a very long time after their introduction in Parliament, with the result that the public finds it wellnigh impossible to be ready with, and forward to Government, their views and observations in appropriate time and naturally this gives room for a genuine grievance that Governmental measures do not take cognisance of the problems confronting or aspects affecting particular sections of the population.

The Committee of the Chamber, therefore, earnestly suggest that, as a matter of general principle and practice, all Bills that are being introduced by Government in Parliament and particularly those affecting the spheres aforementioned should be circulated and the interests concerned should be allowed adequate time and opportunity for giving their mature consideration to, and offering their views and suggestions on, the provisions of those Bills. Government should also make the necessary arrangement for copies of the Bills being made available in time and in sufficient numbers in the different parts of the country, and this factor should be taken into account while calculating the time-lag between the introduction of the Bills in, and the taking into consideration by Parliament thereof.

My Committee would also like to point out that there should be a reasonable time-lag between the submission of the Reports of Select Committees, to which certain Bills might be referred, and the ultimate consideration and passage of the Bills by the Houses of Parliament in the light of those Reports, with a view to enabling the interests or bodies affected to bring to the attention of Government any practical difficulties or lacunae that would result from the implementation of the measures as recommended, altered or modified by the Select

Committees. To cite one instance in this behalf, the Select Committee on the Wealth Tax Bill introduced certain amendments in the original Wealth Tax Bill, so as to provide for exemption from wealth tax to that portion of the net wealth of companies undertaking substantial expansion programmes. While my Committee appreciate the amendment as far as it goes, they wish to point out the practical difficulty that would be felt by an industrial unit in obtaining the exemption as provided for, since the exemption in question is confined to only that portion of a company's assets which are employed in the new unit and places a cumbersome obligation on the company to maintain separate accounts for the new unit and the old unit so as to qualify for the exemption, with the result that the exemption provided for will be nullified. In some cases, it may be wellnigh impossible for companies to have break-up figures for the old and the new units, which are after all integrated parts of the whole. This lacuna would have been brought to the proper and timely attention of Government, provided sufficient time were given to the interests concerned to forward their views on the recommendations of the Select Committee on the Bill.

*Finance Bills:*

Quite often the Finance Bills introduced by Government in Parliament for giving effect to the financial and fiscal proposals contained in the annual Union Budget embody provisions for instituting major and far-reaching amendments or changes in legislations like the Indian Income-tax Act. Such Bills are generally introduced towards the end of February and, in view of the fact that they have to become law before the end of March in order to make the provisions operative from the beginning of the ensuing financial year, the process of their consideration and parliamentary passage is being rushed through, and in the result the interests concerned are deprived of the requisite opportunity to give their consideration to the provisions of the Bills and to submit to Government their comments and observations. My Committee, therefore, suggest that amendments to measures like the Indian Income-tax Act should not form part of the Finance Bills, but should be introduced separately and adequate time and opportunity afforded to the interests and organised bodies to convey their views and suggestions on the provisions of the Bills.

My Committee request that Government will be pleased to give their earnest consideration to the above suggestions and

take early action on the lines thereof. It is also requested that Government will be good enough to circulate this communication to the different Ministries for their information and necessary action.

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## APPENDIX 12

### **Income-tax Allowances (Current Profits Deposit) Rules, 1957**

*Letter No. 1000 dated 30th April 1957 from Chamber to the Central Board of Revenue.*

The Committee of the Indian Merchants' Chamber have given careful consideration to the Draft of the Income-tax Allowances (Current Profits Deposit) Rules, 1957, published in the Gazette of India dated the 16th April 1957 and circulated for comments and views thereon, and as directed by the Committee I hereby give below their views and suggestions on the said Draft Rules.

At the outset, my Committee note with gratification that in preparing the Draft Rules a genuine attempt has been made to redress to a considerable extent the hardships that were likely to be caused as a result of the amendment to the Income-tax Act by the introduction of sub-sections (2B) and (2C) to Section 10 of the Act. At the same time, my Committee hope that Government would take all steps necessary so that the administration of the Rules is so conducted as to smoothen the working of the deposit scheme envisaged by the said sub-sections of Section 10 of the Indian Income-tax Act. With these preliminary observations my Committee will now make certain specific suggestions on some of the rules with the hope that Government will take into consideration these suggestions and modify the Draft Rules in the light of the suggestions and clarify such of those provisions which require clarification.

#### *Rule 2(2):*

Sub-rule (2) of Rule 2 defines the term "approved purpose". According to the definition, utilisation for "approved purposes" includes the layout of fixed assets and repayment of borrowings but the provisions of the draft rules, which appear to have been made pursuant to the basic provisions of the Act, may bring into play the utilization of the entire reserves in fixed assets in the first instance before any advantage can be given in

respect of the layout in fixed assets or repayment of the borrowings during the current year. Perhaps this does not appear to be the intention, since the various forms prescribed under the rules and a reading of the relevant provision as a whole gives the impression that what is intended to charge is a layout for an extraneous purpose not related to the business of the company. In this view of the case my Committee desire to make the following suggestions in respect of the items relating to approved purposes:

- (a) Amounts utilised in the layout for the stock-in-trade, stores and other outstandings and advances made for the business as well as on trade items should be treated as made for approved purposes.
- (b) Similarly, a company would require a substantial amount according to its past record by way of cash resources and to that extent cash resources should be considered as required for the purposes of business and not as surplus cash.

To put it shortly it is only the layout during the particular year in extraneous investments and for surplus cash that should be considered for the purposes of deposit while the remainder should *ipso facto* be treated as laid out for an approved purpose. It may be contended that the discretionary power given to the Commissioners of Income-tax and the authority vested in the Board of Referees would enable a rational consideration of such matters being made but in respect of a basic issue like the one involved in the case my Committee feel that it is desirable that a specific provision should be made in the rules so that such a layout as stated above is treated as one for an approved purpose. If this is done, it would automatically take away the difficulty which might possibly face companies as a result of a very rigid interpretation of the statutory provisions and the rules.

*Rule 2(8):*

Sub-rule (8) of Rule 2 defines the term "statutory surplus". According to the definition, statutory surplus means the sum of the total income of the company for the previous year, as reduced by the amount of income-tax and super-tax payable in respect thereof and by the dividends, if any, declared during the previous year and the sum of the allowances made under Clauses (via), (vib) or (vii) of sub-section (2) of Section 10 of the Income-tax Act. It appears to my Committee that it is necessary to

clearly provide that the income to be taken into consideration for the purpose of arriving at the statutory surplus should be the income ascertained according to commercial principles and not the assessable income, since by having the basis of the assessable income disallowable items like donations and other necessary expenses which go out of the coffers of the company but which are, due to certain provisions contained in the Act or for other technical reasons, added back to the assessable income, would not remain in the hands of the company and the cash resources of the company would stand depleted to that extent and yet the company would be called upon to make a deposit in respect of the same.

According to the provisions of the Income-tax Act losses sustained by an assessee in a speculation business will be allowed to be carried forward in the first year but in the succeeding years it could be adjusted only against gains from speculative business. Therefore in the succeeding years speculation loss carried forward will not be taken into account in arriving at the profits of the company unless there is income from speculation business. My Committee submit that the speculation losses so carried forward should be taken into account in arriving at the statutory surplus. Again, similarly, capital losses can be set off only against capital gains. For this reason capital losses should also be taken into account in arriving at the statutory surplus.

Again in calculating the statutory surplus deductions in respect of the tax payable by the companies should include all the taxes payable under the Act such as the penal taxation under Section 23A for lesser distribution as well as penalties paid by a company under sections 26 and 48, as these payments are in the nature of tax payments to Government.

In this connection, my Committee are also of the view that the rules should provide for a further relief by stating that amounts required for paying a dividend out of the profits for the current year could be availed of by way of deductions by an assessee company if so desired so that the same allowances may not be given in the next year of consideration, with the ultimate result that thereafter, in the future years, it would be the dividend amount actually paid out of the profits of the previous year in the next year that would enter the working instead of the dividend amount of the previous year.

*Rule 3:*

This rule makes a special provision for the computation of the deposits to be made by companies incorporated outside India. In respect of such companies for dividend deductions a proportionate deduction is to be made. Logically, my Committee feel that in the case of companies incorporated in India also, the income to be taken into consideration should be only that portion of its income which arises in India. Some countries like Pakistan prevent remittances from their countries and rules should provide that in respect of companies having income in such countries the income to be taken into consideration for the computation of deposit should be that portion of the total income that arises within India.

*Rule 10:*

According to sub-rule (1) of Rule 10, a company is required to pay interest at the rate of 6% along with the deficit amount to be deposited by the company after the regular assessment of the company has been completed by the ITO. It is not clear from the rules whether for the purpose of refund this interest amount will also be taken into account. My Committee suggest that no interest should be insisted upon and in the alternative it should be made clear that the amount of interest paid by a company according to this sub-rule should be included in the total amount to be available for refund.

The proviso to sub-rule (1) of Rule 10 is to the effect that if the deficit amount is not deposited by the company after being so required by the income-tax officer the company would be deemed not to have made any deposit for that year and thereupon the amount deposited earlier by the company would be refunded to the company in such cases. It is not clear from the rules whether any part allowance of depreciation or development rebate amounts would be allowed in cases where the company has made only a part deposit. My Committee feel that in fairness to the company, it is desirable that allowances should be given to the extent to which a company is actually able to make the deposit and where the company is able to make only a part deposit, part allowances should be given and the whole amount should not stand forfeited. The part deposit made by the company may also be retained and dealt with under the provisions for refund contained in the rule.

Sub-rule (2) of Rule 10 provides for an assessment being made by adding back the depreciation and development rebate

allowances as if no deposit was made, even in cases where the additional amount directed to be deposited by the income-tax officer is actually deposited by the company within the prescribed period. No doubt, the proviso to this sub-rule contains a provision for automatic rectification but in the opinion of my Committee this provision is not at all satisfactory since, with the deposits being made by the assessee company, the adding back of the depreciation allowance and the development rebate would not be in order. Again, the statutory right of the company would stand forfeited and converted into a rectification matter at the hands of the Department and in case the Department does not act, a position may arise by which resort may have to be made to a Court of Law by way of a writ petition resulting in unnecessary complications. In the opinion of my Committee, therefore, it is necessary that this provision should stand deleted from the Rules.

*Rule 11(1):*

Sub-rule (1) of Rule 11 contemplates utilisation of reserves and accumulated profits of the company before it could request Government refund out of the current profits deposited with Government under the Scheme. Since the Rules relate only to deposit of current profits refunds for utilisation in approved purposes should be granted out of the current profits deposited irrespective of the accumulated profits and reserves of the company having been utilised or not for the purpose.

*Rule 13:*

According to this rule any amount deposited would carry simple interest at the rate which may be notified by the Central Government for each financial year. In respect of those items of interest, whether they may be by way of income to the companies concerned or by way of a charge to such companies they should be treated as relating to business and assessed under the head 'Business'. Similarly deductions in respect of interest paid should also be given to such companies and while making the assessments the payment of such interest should not be treated as disallowable.

My Committee would like to make the following suggestion in respect of non-manufacturing companies with limited capital resources and limited amount of fixed assets but having a very large income every year. In respect of such companies the allowance by way of depreciation may be of a small magnitude

but in order to avail of the advantage of the allowance of such amount, the working now visualized by the rules might entail a very heavy deposit, totally out of proportion to the amount of depreciation allowance. It may be that in some companies while the amount of allowance may be about Rs. 5,000 to Rs. 10,000 the statutory deposit may go to the tune of a couple of lakhs. To relieve this hardship, my Committee suggest that an overall provision should be made in the Rules to the effect that the deposit amount should in no case exceed 50% of the amount of depreciation and/or the development rebate allowance for a particular year.

*Rules 14 & 15:*

With regard to this rule, my Committee desire to suggest that before the Board of Referees pass any order regarding the amount to be refunded it should give an opportunity to the party to submit its case and explain its position before the Board as has been provided in sub-section (4) of Section 23A of the Act.

*Rule 16:*

This rule empowers the Central Government to appoint a Board of Referees consisting of as many Members as the Government may desire. In this connection, my Committee would suggest that non-officials having business experience should be included in the Board of Referees that Government may appoint.

The notification dated the 16th April 1957 issued by Government and published in the Gazette of India of the same date lays down the percentage of the deposit to be made by companies. In respect of certain categories of companies formulated therein the percentage of deposit has been fixed at nil, in other words those companies will not be required to make any deposit. My Committee would desire to suggest that the following categories of companies should also be exempted from making any deposit:

(a) *Companies entitled to exemption under Section 15C of the Income-tax Act:* It is essential that a specific exemption should be given to companies to which Section 15C is applicable since, in respect of such companies the method adopted by the Department is to take into consideration all the depreciation that is due, arrive at a net plus figure or a net nil figure or a net minus figure and then decided that, under the provisions of Section 15C, the companies are not assessable to income-tax.

Technically, the amount of depreciation as also the arrears of depreciation which are to be treated as part of the current year's depreciation under the existing law would have to be added and a notional surplus would be created on which a deposit would be payable, although full exemption is given under the statute to such companies. As this would not at all be fair, companies to which Section 15C is applicable should be added to the categories of companies entitled to exemption.

(b) *Companies whose assessable income is nil or minus:* In the case of companies whose assessable income is nil or minus by the addition of the depreciation amount and the depreciation arrears, a notional surplus would be created and although such companies would be entitled to total exemption and will be free of the charge of income-tax or super-tax they would yet to have make deposit. The scheme of deposit envisages cases where a company as such definitely reaps the addition of the depreciation amount and the development rebate and it is able to save as a matter of fact tax in respect of those amounts for a particular year and it is this saving that is intended to be deposited. With a nil income or a minus income the advantage in the form of saving can be reaped only when there are surplus profits after fully providing for the depreciation and/or the arrears of depreciation and therefore such companies should not be brought within the purview of the deposit scheme and should be left out of consideration.

(c) *Companies registered under Section 25 of the Companies Act, 1956:* In respect of companies registered under Section 25 of the Companies Act, 1956, no dividend distribution is contemplated and under the very scheme of the Companies Act and that of the Income-tax Act as regards taxation of mutual associations, the question of deposit should not arise in respect of such companies. In respect of some mutual associations subsection (6) of Section 10 may be applicable and because of such application it may have assessable income under the head 'Business' and it may also have assets in which depreciation is allowed and the net result may be a small surplus or a deficit but by the adjustment of depreciation and or the arrears of depreciation it may be converted into a notional surplus on which a deposit may be payable. Therefore, it is necessary that such companies should also be included in the category to exempt companies.

(d) *Companies which have borrowings and have no extraneous investment or surplus cash and companies where the*

*extraneous investment and surplus are less than the borrowed amounts:* In cases where a company has extraneous investments or cash surplus the same should be initially deducted from the borrowings and if the net result shows a net borrowing, such a company should be treated as one to which the deposit scheme would not apply and the rate of deposit in respect of such companies should, therefore, automatically be fixed at nil.

Another point which my Committee desire to raise in this connection is with regard to the rate of deposit, which has now been fixed at 50% against the maximum of 75% laid down under the Act. In a previous representation, my Committee had pointed out that the actual saving to every company is in the shape of the amount of tax and not in the shape of the absolute amount of depreciation or development rebate and therefore the saving is to the extent of only about 50% of the amount of depreciation allowance and/or the development rebate. While therefore in laying down the percentage of 75%, 25% appears to have been excluded to leave a small margin with the company itself and since the tax factor was not reckoned with in arriving at this percentage, my Committee suggest that the rate should be 37½% and not 50%.

My Committee hope that Government would take into consideration the above suggestions in finalising the Draft Rules.

### APPENDIX 13

#### Meeting with the Member (Income-tax), Central Board of Revenue, on Thursday, the 26th September 1957

*Points for Discussion with Shri V. V. Chari, Member (Income-tax), Central Board of Revenue*

#### INCOME-TAX

##### 1. *Payments for charitable purposes—relief to Partners:*

Payments by registered firms by way of donations to public trusts or charitable institutions were taken into consideration for rebate purposes in the cases of the firms only with the result that only nominal relief became due to such firms. At the time of the last visit of the Board Member his attention was drawn to this inequitable position and the Central Board of Revenue have issued a circular authorising the allowance of the rebate in

respect of such donations and contributions in the hands of the partners at appropriate rates. This circular does not cover instructions for automatic relief to be granted in the cases where initially relief was given only in the firm's case but no appeal was filed pending the instructions of the Central Board of Revenue. In respect of such cases the Officers concerned would be ready to allow the relief by taking away the amount of relief actually granted in the case of the firm and by granting due relief in the partners' cases provided they have instructions to that effect from the Board. It is, therefore, requested that in such cases due relief should be allowed to be granted on the mere applications of the partners of the firm concerned.

## 2. *Imposition of Penalty:*

At the last visit of the Board Member a mention was made about the imposition of penalty in respect of 18A payments and the reply given was that in rare cases only penalty was levied and even interest was not charged. Some Officers, however, take a technical view of the matter and impose a heavy penalty, and in one particular case while the amount of penal interest was only Rs. 400 to Rs. 500, the amount of penalty imposed was as high as Rs. 3,500. This was due to a different interpretation of the relevant provisions being made whereby in calculating the difference of the amount of effective charge for calculation of 80 per cent, the dividend income which should stand deleted was taken into consideration but at the same time, instead of allowing the full credit in respect of the amount of tax deducted at source, which has to be treated as paid for and on behalf of the assessee, 80 per cent credit was given because in the formula adopted for calculation, the amount of tax deducted was initially deducted from the tax due with the result that the 80 per cent was calculated after deducting the full amount of tax deducted at source. In another case, where a firm has several branches and buying centres throughout India and the plea was that they were not ready with the relevant figures, a very substantial penalty has been imposed although this is the first time that a difference arose and there are one or two other items also involved which have a bearing on the final assessment as a result of the appeals filed. It is, therefore, requested that while penal interest may be charged on merit, the imposition of penalty should be made only in cases where there was a deliberate attempt to conceal a source of income or to deliberately understate an item of income and not otherwise. Even for the normal assessment proceedings, penalty is levied for a deliberate default and not otherwise.

As regards the charging of penal interest, no appeal is provided and as a matter of course due relief has to be sought only at the hands of the Commissioner, but in a matter of revenue charge it is desirable that the right should be given to every assessee to appeal against even the charge of penal interest and the issue should be allowed to be decided on merit by the appellate authorities.

*3. Granting of extension of time for the filing of returns of income, etc.:*

Formerly, extensions of time for the filing of returns of income and other particulars were readily given but of late there appears to be a tendency to refuse an extension of time practically in each and every case with the result that all cases crop up for consideration at a time. It should be remembered that in respect of most cases and particularly bigger cases, the matters are handled by professional advisers and such representations may be at the hands of either lawyers or chartered accountants and in some cases by income-tax practitioners. If every professional man or a practitioner were to arrange for the submission of clients' returns at a time, it would create a situation which would wellnigh be impossible to cope up with. Moreover, the Income-tax Officer cannot deal with all the cases under his charge in a particular month only and even if returns were filed, he would himself require time to make the enquiries and complete the assessments in due course. For some time there was a system which was operative whereby professional representatives arranged a programme with the Income-tax Officers concerned and had a layout for the submission of returns for the various months during every financial year. This system worked very satisfactorily and it is, therefore, urged that the Central Board of Revenue should issue instructions to have such a system followed and implemented. This would be to the advantage of the Department as well and would give the required facility to the assessee public.

*4. Bad Debts:*

Attention is invited to the High Court decision in the case of Karamsey Govindji *v.* Commissioner of Income-tax, Bombay City [(1957) 31 I.T.R. 953]. In view of the observations made by their Lordships in the said case and the fact that a very technical view is taken in many cases by assessing officers, it is requested that bad debts or irrecoverable loans pertaining to a business should normally be allowed without such meticulous

examination and a very rigid and technical view may not be taken of the matter. There may be cases where an assessee might have out of abundant caution put in a claim when an assessment is made and filed an appeal possibly claiming it in an earlier year, the claim would be disallowed although interest on the debt would have been accounted for not only for that year but even for a subsequent year and the debt when written off in that subsequent year when it became time-barred may not be questioned as written off in an incorrect year on the basis that it should have been written off in a previous year. In such cases also the allowance of the bad debt should be given in one or the other of the two years in question.

In a case decided by the Bombay High Court, viz. M/s. Jakishandas Tribhovandas *v.* The Commissioner of Income-tax, the learned Chief Justice in his judgement strongly urged upon the Government and the Taxing authority the necessity of some provision in the Law, whereby it would be open to the Income-tax Officer, if the debt was held to be irrecoverable in a particular year, to permit a deduction in some later year in which the Income-tax Officer found that the debt in fact became irrecoverable. It is requested that instructions be issued to the Income-tax Department in the light of the observations made as above by the Bombay High Court.

The difficulties in connection with the disallowance of bad debts have been brought to the notice of the Board on many occasions in the past. This difficulty is more prominent in cases where moneys are due from a company which has gone into liquidation. In such cases, the practice followed by the ITO is not to allow any amount due from the company in liquidation written off in the books of the assessees as bad debts until the final dividend has been received from the liquidators which often take a number of years, say 5 to 7 years. As a result of this even though the assessee has been put to the loss by not being able to recover moneys due from the company in liquidation at the same time he has to pay tax on the amount actually written off in his books. In view of the provisions contained in the Act that whenever any bad debt written off in the books of the company are recovered in future the same would be treated as income, it is suggested that instructions may be issued that if the debts are not recovered for one year and if the assessee has written off the same in his books of accounts, such debts should be allowed as bad debts.

5. *Application of Section 2(6A)(e)—Treatment of advances to a shareholder as dividend:*

The intention underlying this new provision was not to permit shareholders of companies, particularly private companies and companies under the control of a few individuals, to circumvent the provisions of the Act by not distributing sufficient amounts and taking loans. However, in actual working the provisions create practical difficulties.

One is that, although the party may re-pay the loan even before the declaration of the next dividend, he may still remain liable. This is indeed a great hardship to him. Similarly, although only one shareholder might have taken an advance and his share in the company may be negligible, the whole amount of advance is likely to be treated as 'dividend'. On a rational application of the provisions, it is only to the extent of the share of the particular shareholder, according to the number of shares he holds in the company, that the provisions should have effect and not to the artificial extent of the actual amount of the advance.

To give a concrete example, if the total number of shares in a company is 1,000 and the shareholding of the shareholder in question is 10 and the available reserves and surplus stand at Rs. 50,000, the amount to be reckoned with should be only Rs. 500, whatever the amount of loan may be, but if a shareholder has taken an advance of say Rs. 50,000, he may be liable to pay tax on the sum of Rs. 50,000 which he may not get by way of dividend even during his lifetime. It is, therefore, requested that loans and advances actually paid off otherwise than from dividends even should be treated as proper payments back and no cognisance should be taken in respect of those items in the assessments of the shareholders. Similarly, when a loan or an advance remains actually outstanding, the inclusion by way of dividend should not be to the extent of the amount of loan, but only to the extent of the share of the particular shareholder in the reserves and surplus on the basis of his holding as it bears to the total shares of the company.

The provision, as it stands, also results in the duplication of tax, one by notional method and then by the actual taxation in the hands of the shareholders.

6. *Current Profits Deposits:*

The scheme as a result of the formula and the rules and instructions given to the Board of Referees and the Commis-

sioners appear to be working satisfactorily, but there are one or two points in respect of which the Chamber desires to draw the attention of the Member. The applications to the Commissioners arise to be made in respect of all companies at a time, viz. on or before the 15th of April. On the basis of the analysis made respecting the other issue about the granting of time for submission of returns, etc., it would be better if a little more latitude were given to the assessee public, whereby the submission of such applications was spread over a period of time. For this purpose, the Chamber would urge consideration whether a suitable amendment could not be made in the Rules to enable the granting of time in cases where such applications are made to the Commissioner for an extension of time for filing required petitions.

As regards the formula adopted for disposing of the applications before the Commissioner, particulars concerning the outgoings for fixed capital expenditure, during the period upto 30th of June next or the expiry of 6 months from the end of the previous year, was invariably called for. While this may be necessary to allow the advantage to the assessee to have the benefit thereof, provided there was a depositable amount in respect of the year's working, such figures are not material for cases where the year's working itself shows that during that very year the amounts have been laid out for approved purposes. In the light of this observation, it is suggested that, although particulars may be called for and kept on record, these should not find any reflection in the ultimate decision which the Commissioner may give and the advantage which the assessee company can claim in the next accounting year in respect of such amounts may not stand extinguished. Actually, the view taken by the Commissioner of Income-tax at Bombay has been of this nature, but it may be that the Officers concerned with the disposal of such applications may take a different view and, to provide a definite formula in this behalf and to have the matters disposed of on a uniform basis, it is requested that applications may be disposed of on the basis of the suggestions so made.

#### 7. *Sections 42 & 43:*

The Chamber had on many occasions in the past drawn the attention of the Central Board to the unsatisfactory position resulting from the provisions contained in Sections 42 and 43 of the Income-tax Act, as they stand at present. Such a position has emanated because the term 'business connection'

appearing in Sec. 42 has been literally construed by the Income-tax Authorities and by some of the High Courts. This had caused confusion in, and a setback to, both the import and export trade of the country. With a view to removing the confusion and the consequent difficulty, the Chamber had emphasized the need and importance of a thorough review of the provisions in the relevant Sections. It had been suggested that a non-resident principal should be subject to the Taxation Law of this country only when he exercised a trade IN the Indian Union and not merely WITH India. In this behalf, reference may be made to the following extract from the Judgment of the Bombay High Court in Abdullabhai Abdul Kadar v. The Commissioner of Income-tax, Bombay City: (1952, 22-ITR-241, pp. 253/4).

"It is clear that the Legislature did not intend to tax a non-resident in respect of income, profits or gains accruing or arising from any business connection with taxable territories. In other words, it is not sufficient that a non-resident should do business with India, in order that he should make himself liable under Sec. 42. The business connection contemplated by Sec. 42 is something wider than mere doing business with India. The preposition used by the Legislature is IN and not WITH, and proper emphasis must be given to the particular word IN used by the Legislature. Therefore, we can easily exclude all these cases in which we find that a non-resident is merely doing business with India. It is also clear from the expression 'any business connection in the taxable territories' that the non-resident must be carrying on business in India through some agency. There must be some connection between the non-resident and the taxable territories."

It is being pointed out on behalf of Government that implementation of Sections 42 and 43 is a matter of policy, and assurances are being given that any practical difficulties in this regard would be looked into. While the Chamber appreciates the assurances given by Government, it is felt that, in view of the imperative need for stimulating and increasing the export trade of the country, a review of the policy is called for. The relevant provisions of the Income-tax Act act as a damper in the promotion of our export trade, as it discourages foreigners from importing goods from India. The Chamber, therefore, reiterates its earlier request that a beginning may be made in the direction of relaxing the effect of the provisions of Sec-

tions 42 and 43 by giving immediate force to the recommendations of the Taxation Inquiry Commission in this behalf.

#### *8. Powers of Appellate Assistant Commissioner:*

The High Court of Bombay in Narandas Manordas *v.* Commissioner of Income-tax (31-ITR-909-919) held that the Appellate Assistant Commissioner has been constituted a revising Authority against the decisions of the Income-tax Officer; a revising Authority not in the narrow sense of merely revising what is the subject-matter of appeal, nor in the sense of revising those matters whereabout the assessee makes a grievance, but a revising Authority in the sense that, once the appeal is before him, he can revise not only the ultimate computation arrived at by the Income-tax Officer but also every process which led to the ultimate computation or assessment by the I.T.O. In other words, he can revise not merely the ultimate amount, which is liable to tax, but even the various decisions given by the I.T.O. in the course of the assessment as well as the various incomes or deductions which came in for consideration of the I.T.O. Effective powers in the hands of the A.A.C. will act as an effective deterrent against assesses going in appeal on matters in which they have a good case, since the whole assessment may get reopened and reviewed for a fresh attack on lines not contemplated by the I.T.O. or the assessee. Such powers in the hands of the A.A.C. will make him not a judicial Officer, but a revising Executive Authority, which is not envisaged. This inequitable position needs examination and if necessary the Act may be amended to remove the inequity.

#### *9. Assessment of Firms:*

Where a firm has been assessed as an unregistered firm, tax is paid by the firm as an entity. Partners do not get credit, yet for rate purposes partner's share is aggregated in his total income. Recently, the Bombay High Court held that the share of profit from an unregistered firm may not only be aggregated for rate purposes, but that it shall also absorb the partners' share of loss in their account when, as a registered firm, the firm suffered a loss. This would result in the partner losing his right to utilise his loss with a view to abate his tax liability by carrying forward and setting it off in the subsequent year. The above decision neutralises the loss in partner's share by setting it off against profit in an unregistered firm—a firm which under the Income-tax Act is recognised as an entity by

itself. It is requested that the position may be looked into and necessary changes made in the relevant provisions of Law.

Tax on a registered firm is a tax on the firm for the advantages enjoyed by it under the Act. It is not a tax on the firm on its income. In case of a registered firm, its profits are taxed in the hands of the partners—the firm as such paying no tax. It is being pointed out that, for determining the total income of a registered firm for such a levy, the firm's loss carried forward to the partner's account is not taken into account. This does not appear to be correct. A registered firm pays tax on the income and when the income is allocated each partner pays the tax again on the aliquot part as his income. This clearly proves that the tax on a registered firm is merely a measure of tax for its corporate existence like corporate tax on a company and, if that be so, there should be no difficulty in deducting loss from the profit if proper measure of tax is to be determined. Yet when a claim is put forward for a proper rational measure, carry-forward of loss is ignored. If income is a yardstick—the true profits measure will be current year's profit less last year's loss (if any). It is submitted that this principle is implied in the Act [*Vide* Section 24(2), proviso (e) read with 2nd proviso to Section 26(1)]. The matter may kindly be looked into and the necessary instructions issued.

#### 10. Section 49C:

The Bombay High Court in *Wallace Sons & Co. Ltd., Bombay v. The Commissioner of Income-tax, Bombay* (1954-ITR-XXVI-241), held that a double income-tax relief to the company may abate the credit by tax deducted at source in the assessment of the shareholder. It will not, however, alter the grossing up. In brief, therefore, though credit is reduced, grossing up, which is but an addition to the net dividend of tax deducted at source, will not be affected. The whole basis of Sec. 49B appears to be to pass on the double income-tax relief obtained by the company to the shareholders, as if they were doubly taxed. Sec. 49C supports this view. It is, therefore, equitable that the shareholder's total income should suffer no diminution, while the credit given to him is reduced by double income-tax relief. Not to adjust the grossing up of dividends would be tantamount to giving the company a relief and taking it away from the shareholders. This aspect of law may closely be examined and the necessary revision made.

11. *Setting off speculation loss against speculation profits:*

An assessee carries forward a loss in speculation. In the relevant year he suffers loss under other sources, but has a profit in speculation. In arriving at the assessable income, profit in speculation is first sought to be set off against loss under other sources, before setting off the speculation loss carried forward. Such a treatment of speculation profit and loss operates very inequitably since it affects the right of the assessee to set off speculation loss against speculation profit.

The Committee of the Chamber feel that, in equity, the speculation profit should first be allowed to be absorbed by speculation loss carried forward and the balance alone should be set off against loss in other sources.

12. *Keeping in abeyance payment of taxes on disputed amounts till disposal of appeals:*

Payment of taxes on disputed amounts when appeals are pending are being kept in abeyance provided the party's financial position did not warrant immediate recovery and if the matters involved in appeal were not frivolous. Though till recently this policy was being followed and relief given to the assessees until the disposal of appeals at the final stage it has been pointed out that since recently such relief is being given only till the disposal of the appeals by A.A.C. by certain Commissioners of Income-tax on the ground that the appeals under the provisions of the Act mean only appeals before the Appellate Assistant Commissioner and not before the superior tribunal. As a result of this change in the procedure adopted by the Department, even in deserving cases the assessees are put to very great inconvenience. It may be pointed out that in many cases appeals are in respect of disallowance of actual expenditure incurred by the assessees. Expenses which have actually been incurred are sometimes being disallowed on some ground or other and in such cases the assessees have in addition to the out-of-pocket in respect of amounts of expenditure, are required to pay taxes on such losses. It is, therefore, suggested that instructions may be issued to the Department to keep in abeyance payment of tax on disputed amounts in deserving cases till the disposal of appeals at the final stage, and where questions of law are involved till the disposal of any reference that may be filed before the High Court.

**13. Issue of Refunds:**

It is observed that whereas sufficient zeal and promptitude is displayed by the Income-tax Officers in collecting the taxes that are due, similar regard and anxiety is not shown in issuing refunds or disposing of cases in which refund will be due, with dispatch. There is no departmental instruction which requires the Income-tax Officers to submit particulars about the number of cases in which refunds are due and calls for explanation as to why refund has not been granted. It is suggested that instructions should be issued requiring I.T.O.s to issue refunds within a period of one or two months.

**14. Allowances in respect of legal and accountancy expenses incurred before Appellate Tribunals or High Courts:**

Among the administrative instructions issued by the Central Board of Revenue for the guidance of all officers and persons employed in the execution of the Income-tax Act and one relating to allowance to an assessee of the Accountants' and Lawyers' fees is as under:—

"Audit and other accountancy expenses incurred annually, including expenses of settling the income-tax liability of an assessee will be ordinarily allowed. But expenses connected with subsequent proceedings before the higher authorities in Appeal, Review or High Court will not be allowed. The expenses of an appeal to the Appellate Assistant Commissioner or to the Income-tax Appellate Tribunal against the application of Section 23A, will, however, be allowed if the company succeeds in establishing in appeal that the section should not have been applied in its case."

Therefore expenses incurred for the purpose of settling the income-tax liability, by engaging lawyers, accountants, etc., are allowed generally by the Income-tax Department. Expenses of an appeal to the Appellate Assistant Commissioner or the Tribunal against the application of Section 23A is also allowed if the company succeeds in appeal. But the expenses connected with subsequent proceedings before the higher authorities in appeal, or review by High Court are not allowed by the Department.

According to law the legal pursuit of a remedy by suit, appeal and second appeal are really but steps in a series of proceedings all connected by an intrinsic unity and are to be

regarded as one legal proceeding. An appeal is merely a continuation of the proceedings in the original Court and the moment an appeal has been lodged and entertained by a superior Court the finality attached to the decision of the subordinate Court is thereafter set at large and the decision in the proceedings is the ultimate and final conclusion arrived at by the Appellate Court and the basis of the decisions which hold that the order of the trial Court becomes merged in the order of the Appellate Court is that an appeal constitutes a continuation of the suit and it is in effect a rehearing of the suit by the Court of appeal.

If, therefore, expenses incurred by an assessee for the purpose of settling the income-tax liability by engaging lawyers, accountants, etc., are allowable by the Income-tax Department irrespective of the allowability, it is only logical that the expenses incurred by an assessee for an appeal to the Appellate Assistant Commissioner or to the Tribunal should also be allowed specially as expenses of an appeal to the Appellate Assistant Commissioner or to the Tribunal against the application of Section 23A are allowed to an assessee company if it succeeds in the appeal. It should be presumed that no assessee will incur the expenses of engaging lawyers and accountants for an appeal unless he is really aggrieved by the order appealed against and oftentimes important questions of facts and law are involved in an assessee's case and he is compelled to engage eminent lawyers or accountants to fight his appeals.

It is, therefore, suggested that the Central Board of Revenue may be pleased to issue necessary orders for allowing legal and accountancy expenses incurred in prosecuting appeals before Appellate Tribunals and references to High Courts in connection with an assessment.

#### 15. *Books of Accounts of Assessees—Reliance to be placed on:*

It is a common experience that profit in trading operations in the case of a trader, profit in manufacturing activities in the case of a manufacturer and working result in the case of a contractor as appearing from the books of accounts are very often rejected by the Income-tax Department on the grounds that stock records or quantity account is not maintained, that there is no check on consumption of materials and stores, etc., and they are subjected to arbitrary assessment by comparison with other assessees carrying on similar business. Especially, in the case of contractors there are different types of contractors and in any

particular case comparison with any other assessee, carrying on the same business, will not be proper and assessment on an arbitrary percentage of profit based on such comparison will not be justified. It is, therefore, suggested that the Department should bring about a change in the attitude to be adopted towards reliance on the result shown by the books, and the assessees should be made to feel that their books of account are *prima facie* regarded as trustworthy.

*16. Assessment to Income-tax of Trade Associations, Chambers of Commerce, etc.:*

Under the general law, the surplus accruing to a mutual concern like a trade association cannot be regarded as income, profits or gains for purposes of the Indian Income-tax Act. To this general principle, however, an exception has been provided for by sub-sec. (6) of Section 10 of the Income-tax Act, according to which a trade, professional or similar association, even though of a mutual nature, performing specific services for its members for remuneration definitely related to those services, is deemed to carry on business in respect of those services, and profits or gains arising therefrom are liable to tax accordingly. As a result of the application of these principles, trade associations, chambers of commerce, etc. are at present liable to payment of income-tax on the income derived from property, interest on investment, as also on fees charged for specific purposes and services, while the subscription income as such is exempt from tax. The Income-tax Inquiry Committee, 1936, had recommended that administration arrangements might be entered into with such associations/chambers of commerce, by which—

- (a) the associations would be taxed on the entire surplus of receipts over total outgoings without allocation,
- (b) the members would get the entire annual subscription allowed in their assessment, and
- (c) any sum distributed by the association to its members would be allowed as a deduction from its income and taxed in the hands of the recipients.

The Taxation Inquiry Commission, 1952, after considering the various points raised before them re: assessment of trade associations, chambers of commerce, etc. recommended that a long-term arrangement, as suggested by the 1936 Inquiry Committee, be entered into with such associations as are prepared to do so. It is, therefore, suggested that effect may be given to the above recommendation of the Taxation Inquiry Commission by giving

an option to trade associations, chambers of commerce, etc. to be assessed on the entire surplus of receipts over total outgoings.

### *17. Group System of Working:*

Recently, a Group System of working has been introduced, whereunder Sectional Officers have been placed under the charge of Group Leaders, who are Inspecting Assistant Commissioners of Income-tax and in respect of important cases the orders are passed only after the Inspecting Assistant Commissioner has considered the assessment matter and the draft assessment order. It is essential for the successful operation of such a scheme that representatives of assessee are heard by the Inspecting Assistant Commissioner of Income-tax on vital issues, because without such a hearing a view or decision may be taken without the assessee having had an opportunity of rebutting the presumptions of an incorrect nature. It may be that in a number of cases the Inspecting Assistant Commissioner may be giving such an opportunity to the representatives of assessee, but as a matter of procedure and uniformity it would be better to have instructions issued to all the Inspecting Assistant Commissioners of Income-tax to afford a hearing to the representatives of assessee in each case.

## WEALTH TAX

### *1. Wealth Tax Returns:*

It may be that Government may take some more time to have the required forms printed and issued to the tax-paying public and as the time for the filing of the relevant Returns of income expires under the Act on 31st December 1957, it is suggested that such time be further extended in respect of all cases on a uniform basis to the 31st March 1958 and the Officers concerned, at their discretion, may give further extensions for suitable cases, if they so think fit.

### *2. Arbitration Proceedings under the Wealth Tax Act and the Estate Duty Act:*

It is gratifying to note that Government have since accepted the suggestion made by business and industrial interests to have the valuations made by two Arbitrators, one to be appointed by the assessee and the other to be nominated by Government.

However, the system which was previously introduced requiring certain qualifications and conditions to be fulfilled in respect

of the Valuers to be named by Government for the purpose has not been changed or modified. In respect of this system, the Chamber had already drawn the attention of the Central Board to the fact that there is an invidious distinction made as between the categories of Valuers. In the case of Architects, Surveyors and Engineers, the qualification is only a periodical standing in the line, viz. 10 years' standing, while in the case of Chartered Accountants and persons concerned with the valuation of jewellery and other articles, not only a ten years' period of standing is required but, in addition, certain other requirements have got to be fulfilled. Such requirements provide, so to say on an artificial basis, the type of work which is expected and such a provision cannot give a proper indication of the qualification for that type of work being suitable for a technician. In fact, in respect of professional people like Chartered Accountants, a periodical standing of ten years should be the only criterion as in the case of architects, surveyors and engineers. Similarly, for valuers of jewellery, etc. also the same periodical standing should be the test. The Chamber, therefore, earnestly requests the Central Board to make this change and put all the types of Valuers on the same basis.

In view of the fundamental change made in the basis of the Valuers' appointment, i.e. on Arbitration basis, the provision on a pure valuer basis does not fit in. Under the Indian Arbitration Act, the parties to the dispute have a right to appoint anyone they choose, irrespective of any specified qualification, and before the Arbitrators it would be open to the parties concerned to adduce such expert evidence, as may be necessary, if circumstances called for the adducing of such evidence. But under any Arbitration, there should be the fullest latitude to both the parties to the dispute to make the selection of an Arbitrator of each party's choice, and in view of this aspect of the matter, the Chamber would strongly urge upon Government to delete the relevant Rule requiring a specified roll of particular types of Valuers being maintained.

### 3. *Assessment of Wealth Tax of trade associations, Chambers of Commerce, etc.:*

Clause 45 of the Wealth Tax Bill, as passed by Parliament, exempts charitable and other companies, registered under Sec. 25 of the Companies Act, 1956, from payment of Wealth Tax. There are many trade associations and chambers of commerce, which are not so registered either under the above Section of the Companies Act or under any other law for the time being

in force. The aims and objects of such trade associations and chambers of commerce as well as the work carried on by them, whether they are registered under the Companies Act or not, are but similar, and it is proper, therefore, that the exemption, which has been afforded to bodies registered under the Companies Act, should also be extended to all trade associations and chambers of commerce. It is presumed that such associations and chambers, which are not registered, will also not be liable to wealth tax. It is requested that the position in this regard may be made clear.

#### 4. *Rule 2 of the Schedule:*

The Committee of the Chamber feel that some satisfactory procedure should be evolved with a view to giving proper effect to Rule 2 of the Schedule to the Wealth Tax Act, viz. the tax paid by the assessee shareholder and the company does not exceed the maximum of 1.5 per cent of the value of the shares. While the benefit of Rule 2 is available to all companies, at the same time inter-corporate investments are exempted from Wealth Tax in the hands of the investing company. After taking into account the exemption limit of Rs. 5 lakhs in the case of companies, it should be borne in mind that the companies will be exempted from Wealth Tax in respect of their investments in other companies and, therefore, the net wealth on which the tax is payable will depend on those factors and will vary from company to company. The proportion of exempt wealth to the total net wealth will thus differ in the case of each company and the actual benefit to the shareholders will not be known until they are in a position to ascertain exactly the proportion of wealth tax paid by the company in relation to their shareholding in that company.

As at present, the assessee has no means of ascertaining the proportionate wealth tax paid by the companies in which he holds the shares in relation to his respective holdings in these companies. Nor is there any provision under which the companies concerned are required to issue a Certificate showing per share wealth tax paid, so that the shareholder can exactly know how he stands in relation to the actual wealth tax payable by him in respect of the shares in those different companies. If the assessee fails to show the proportionate amount of wealth tax paid by each company in which he holds shares, the Wealth Tax Officer will apply in respect of such shares the rate applicable to his other wealth and, unless such company is obliged to furnish the assessee details pertaining to the wealth

tax paid by it in relation to its total paid-up capital, the assessee will have to write off this concession as illusory in his case.

Until a satisfactory procedure, as above suggested, is evolved, on the analogy of assessment of dividends of tea companies, assessment in the hands of the shareholders may be made on a provisional rate of 1%, it being presumed that the company pays the remaining  $\frac{1}{2}\%$ , and his final assessment as per the Rule completed on final assessment of the company to Wealth Tax.

### SUMMARY OF REPLIES GIVEN BY SHRI CHARI

#### *Section 18A of the Indian Income-tax Act—Imposition of Penalty:*

Shri V. V. Chari wholeheartedly approved the suggestion made by the Chamber that, while penal interest may be charged on merit, imposition of penalty should be made only in cases where there was deliberate attempt at concealing a source of income or deliberately understating an item of income, and not otherwise. He reiterated the assurance given on an earlier occasion that the penal provisions of Section 18A would be and were very seldom used, and added that penalty was imposed only in a very small percentage of cases and even in them the amount of penalty imposed was much below the maximum provided by law. As for the request for a provision for an appeal from charge of penal interest, Shri Chari mentioned that charging of penal interest under the Section did not constitute an order on a matter wherein there were two opinions and that it did not, therefore, amount to an adjudication of any issue. In his view, therefore, no provision for an appeal was necessary in this behalf, especially in view of the provisions contained in Rule 48 of the Indian Income-tax Rules relating to reduction or waiver of interest, for the proper use of which elaborate instructions have been issued.

#### *Extension of time for filing of returns of income, etc.:*

The Chamber pointed out that, as a result of extension of time for filing of returns being refused in almost each and every case, all assessment cases cropped up for consideration at more or less the same time, making it very difficult, if not impossible, for professional representatives of assessees to cope up with the work and suggested that the previous procedure of such representatives fixing up an arranged programme with the

Income-tax Officers be revived. The Central Board Member remarked that the step was taken with a view to clearing off assessment cases, and since the liability for filing of returns arose immediately on the passage of the Finance Bill assessee should be ready with their returns in time and there was hence no case for asking for time extension. He, however, said that, if in any particular case the professional representative had difficulty to attend to the matter, he could ask for extension of time and that this should not stand in the way of issue of Notices under Sec. 23.

#### *Bad Debts:*

With regard to the suggestion that bad debts or irrecoverable loans pertaining to a business should normally be allowed without any meticulous examination or without a too rigid and technical view being taken thereof, Shri Chari stated that usually bad debts were being allowed wherever there was *prima facie* evidence concerning the same. He added that if the Department was satisfied that a debt became bad in a particular or in a subsequent year, it would be allowed in the year in which it became so bad.

#### *Section 2(6A)(e)—Treatment of Advances to shareholder as dividend:*

Dealing with the suggestion that loans and advances actually paid off by a shareholder, otherwise than from dividend, should be treated as proper payments back and that no cognisance be taken in respect of those items in the assessment of the shareholders, and that when a loan or advance remained actually outstanding the inclusion by way of dividend should only be to the extent of the share of the particular shareholder in the reserves and surpluses on the basis his holding bears to the total share capital of the concern, and not to the full extent of the loan amount, the Member pointed out that the provision has been in existence only for a very small period now and that he would take note of the grievances of the assessee in this behalf for careful consideration.

#### *Sections 42 and 43:*

As regards the suggestion made by the Chamber that a change of policy with regard to the operation of Sections 42 and 43 was absolutely necessary, especially at the present juncture when there was an imperative need to stimulate the export

trade of the country, Shri Chari stated that he did not think that these Sections were in any manner hampering the export trade of the country. He invited reference to the various Circulars issued by the Central Board from time to time clarifying the position re: liability of non-resident exporters and of Indian importers of machinery on instalment payment basis and expressed that, if the only operation in India was the receipt of Bank documents and payment of money thereon, no assessment would be made on accrual basis.

*Setting off Speculation Losses against Speculation Profits:*

Shri Chari agreed with the suggestion made by the Chamber that speculation profits should first be allowed to be absorbed by speculation loss carried forward and that the balance alone should be set off against losses from other sources, instead of the existing practice of arriving at the assessable income by setting off speculation profits against losses under other sources before setting off speculation loss carried forward.

*Payment of Taxes on Disputed Amounts:*

Replying to the suggestion that payment of taxes on disputed amounts should be kept in abeyance till disposal of appeals or reference at the final stage, the Member said that under the law such keeping in abeyance was restricted upto the stage of the disposal of appeal by an Appellate Assistant Commissioner and that it was impossible to give a definite formula to be applied in all cases. He, however, added that every case would be examined on its merits and in extremely hard cases tax on disputed amount could be deferred till the disposal of the final appeal or reference.

*Issue of Refunds:*

As regards the complaint that refunds were not being issued quickly, Shri Chari asserted that the complaint was not quite correct and that in 95 per cent of the cases refunds were granted straightaway. Quoting figures, he stated that during the 5 months ended 31st August 1957, refunds to the tune of Rs. 3.34 crores were issued.

*Allowance of Legal and Accountancy Expenses:*

Shri Chari stated that the practice of allowing Lawyers' and Accountancy fees as expenses in connection with the settling of income-tax liability could not be extended to expenses

incurred at higher stages of appeal or reference, as, in his view, even the present position was quite generous and most of the work of accountants would have been completed before the Income-tax Officers.

*Assessment to Wealth Tax of Trade Associations, etc.:*

The Central Board Member clarified that trade associations, chambers of commerce, etc., even though not registered under Sec. 23 of the Companies Act, 1956, would be exempt from Wealth Tax.

The other points raised in the Memorandum and discussed with Shri V. V. Chari by the Chamber were:

Payments for Charitable Purposes—Relief to Partners.

Current Profits Deposits.

Powers of Appellate Assistant Commissioners.

Assessment of Firms.

Section 49C.

Reliance to be placed on Books of Accounts of Assessee.

Assessment to Income-tax of Trade Associations, Chambers of Commerce, etc.

Group System of Working.

Wealth Tax Returns.

Arbitration Proceedings under the Wealth Tax Act and the Estate Duty Act.

Rule 2 of the Schedule to the Wealth Tax Act.

#### APPENDIX 14

#### Wealth Tax Act, 1957

*Letter No. 2553 dated 29th November 1957 from Chamber to the Central Board of Revenue.*

The Committee of the Indian Merchants' Chamber desire to refer to Circular No. 3 W.T. of 1957 dated the 28th September 1957 issued by the Central Board of Revenue containing instructions on Location and Valuation of Assets under the Wealth Tax Act, 1957. According to these instructions, in respect of valuation of immovable properties, where the value of the assets cannot easily be ascertained in the

manner therein indicated, the Wealth Tax Officer is empowered to adopt the capital value of the property determined by the appropriate Authority in the latest assessment for purposes of Property Taxation. Where such Municipal valuation is too low by reason of the rents received being small, or where no valuation has been made by any Municipality, or where the property is situated in a locality in which there is no Municipality, the Wealth Tax Officer has been authorised to estimate the reasonable annual value of the property and determine its capital value as a multiple, say, of 20 times such annual value.

My Committee are of the considered view that it will be unfair and inequitable to assess the capital value of property by way of multiplying its annual value by 20 times as provided for in the instructions. They feel that the capital value should not exceed 15 times the net annual value of the property obtained after deducting all the taxes paid in respect of the property as well as the cost of repairs, insurance and other reasonable expenses incurred in connection therewith. Any computation of the capital value on the basis of the aforementioned instructions, viz. 20 times of the annual value, would result in undue harassment to the assessees concerned and will also entail unnecessary expenses in getting disputes adjudicated.

My Committee, therefore, request that the Central Board will be pleased to give their earnest consideration to the above aspect and to modify the instructions so as to assess the capital value of properties at not more than 15 times the net annual value for purposes of the Wealth Tax Act.

## APPENDIX 15

### Wealth Tax Act—Sections 45(d) and 5(1)(xxi)

*Letter No. 2809 dated 30th December 1957 from Chamber to the Central Board of Revenue.*

Clause 45(d) of the Wealth Tax Act grants a 'wealth tax holiday' for a period of five years from the date of incorporation to a company established for the purpose of carrying on an industrial undertaking engaged in the manufacture, production or processing of goods or articles or in mining or in generation or distribution of electricity or power. Clause (xxi) of subsection (1) of Section 5 purports to give a similar exemption to that contained in Clause 45(d) to companies which under-

take substantial expansion of their undertakings. Both these provisions were inserted at the Select Committee stage of the relevant Bill and it is clear from the Report of the Select Committee that clause (xxi) of sub-section (1) of Section 5 was inserted with the intention of making available to the new units of existing companies similar exemption as is contained in Section 45(d) of the Act to new industrial companies.

However, in drafting clause (xxi) of sub-section (1) of Section 5 of the Act this intention of the Select Committee does not appear to have been fully implemented. Under Section 45(d) exemption is available even to companies incorporated before the coming into operation of the Wealth Tax Act, although the benefit is confined to the first five years of its operation. The exemption available under clause (xxi) of sub-section (1) of Section 5 has, however, been confined to new units set up after the commencement of the Act so that the benefit under this provision is not available to new units established before the coming into operation of the Act. In view of the clear intention of the Select Committee regarding the availability of the benefit under the two provisions above mentioned, it is felt that there has been some inadvertence in the drafting of the provision contained in clause (xxi) of sub-section (1) of Section 5 of the Act.

The Committee of the Indian Merchants' Chamber in the circumstances request that necessary steps may be taken as early as possible for amending the relevant provisions contained in Section 5 with a view to give effect to the clear intention of the Select Committee by making the benefit under that provision available to new units established by existing companies even before the coming into operation of the Act, the period of the benefit being of course confined to five years from the establishment of such units and in the meanwhile, the benefit be allowed under executive instructions.

*Letter No. F. No. 1/1/58-W.T. dated 31st January 1958 from the Central Board of Revenue to Chamber.*

With reference to your letter No. 2809 dated 30th December 1957 on the above subject, I am directed to say that the exemption provided by clause (xxi) of sub-section (1) of Section 5 of the Wealth Tax Act, 1957, is available only to the new units set up after the commencement of the Act. It is not possible for the Board to extend this exemption to the units set up prior to 1st April 1957.

*Letter No. 542 dated 5th March 1958 from Chamber to the Central Board of Revenue.*

I am directed by the Committee of the Indian Merchants' Chamber to acknowledge receipt of your letter No. F.1/1/58-W.T. dated the 31st January 1958 and note that it is not possible for the Board to extend the exemption provided by Clause (xxi) of sub-section (1) of Section 5 of the Wealth Tax Act, 1957 to units set up prior to 1st April 1957. My Committee are fully aware that according to Clause (xxi) of sub-section (1) of Section 5 of the Wealth Tax Act, as it stands at present, the exemption would be available only to new units set up after the commencement of the Act and had, therefore, requested, in our letter of the 30th December last, for taking necessary steps for amending the relevant provision with a view to making available the exemption to new units established by existing companies even before the coming into operation of the Act.

My Committee had therein invited the Board's attention to the report of the Select Committee on the relevant Bill and had pointed out that the intention of the Select Committee in recommending the insertion of the relevant provision was to give new units set up by existing companies similar exemption as is contained in Section 45(d) of the Act to new industrial companies. The idea of giving the exemption is to give relief to new units for some period, viz. 5 years after their coming into existence, and this relief should be available to all new units for the limited period whether such units come into existence before or after the coming into force of the Act.

My Committee, therefore, once again request the Board to reconsider the issue and to take early steps for amending the law with a view to give effect to the clear intention of the Select Committee and making available to new units established prior to 1st April 1957 of existing companies also the benefit of the exemption for the period of 5 years from their coming into being.

#### APPENDIX 16

**Disposal of Appeals by Appellate Assistant Commissioners during the pendency of similar issues before the High Courts**

*Letter No. 835 dated 3rd April 1957 from Chamber to the Central Board of Revenue.*

The Committee of the Indian Merchants' Chamber understand that while the hearing of appeals pending before the

Appellate Assistant Commissioners of Income-tax involving issues similar to those decided by a High Court in favour of the assessee are being postponed from time to time, in certain cases on the ground that the decision of the High Court is being taken up in appeal before the Supreme Court by the Department and in other cases without giving any reasons for the postponement, an entirely contrary approach is being made in the disposal of appeals pending before the Appellate Assistant Commissioners involving issues similar to those pending before a High Court by expediting their disposal without taking into account requests by assessee for postponement of such cases till the disposal of the reference pending before the High Court. As a result of this approach made by the Department in the disposal of appeals, the assessee are put to great financial strain inasmuch as while on the one hand they are deprived of the benefits of the decision of the High Court in their favour by way of refund, on the other hand, they are required to comply with the demand for payment of taxes arising out of the disposal of appeals against them.

As an instance of what has been stated above, it may be mentioned that recently a number of cases under Section 24(1) of the Indian Income-tax Act involving the question of splitting up of speculation losses from other business losses, which were held back on account of the pendency of a reference before the Bombay High Court on the correct interpretation of the relevant Section, were disposed of in spite of requests from assessee for postponement of the hearing of the appeals. Again, cases regarding payment of taxes on excess dividends under the Finance Act, which issue has been decided by the Bombay High Court in favour of the assessee, are being postponed on the ground that the decision of the Bombay High Court is being tested before the Supreme Court by the Department. As the Board will appreciate, the postponement of the hearing of these appeals involving issues decided by the High Court in favour of the assessee precludes the assessee from claiming refund which would be due to them in terms of the judgment of the High Court.

As it has already been pointed out, the procedure adopted in disposal of appeals results in the assessee being deprived of their normal rights and involving them in further financial difficulties.

My Committee, therefore, urge that the Board may consider the difficulties explained above and issue necessary instruc-

tions requiring the Department to adopt a reasonable and consistent attitude in the matter of disposal of appeals before Appellate Assistant Commissioners.

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## APPENDIX 17

### **Income-tax on Amounts received by Employees by way of Gratuity**

*Letter No. 886 dated 13th April 1957 from Chamber to the Central Board of Revenue.*

Under Section 7 of the Indian Income-tax Act amounts received by employees under Schemes of Gratuity framed by their employers are liable to income-tax in their hands under the head "Salaries". Gratuities are payments made to employees at the end of their service with the employers in consideration of the services rendered by such employees and as a payment for the benefit of the employee concerned in his old age and his family. In bringing these payments to tax in the year when the employee leaves the service of the employer they are added on to the income of the employee in that year so that the amounts by way of gratuity become liable to tax at a higher rate and in some cases a major portion of this amount is consumed by way of taxes, thus defeating the object of payment of gratuity. The Committee of the Chamber feel that it is necessary to evolve a scheme by which the amount of gratuity is not whittled down and at least a major portion of it goes into the hands of the employee for the purpose of achieving the object for which such schemes are framed.

My Committee, therefore, suggest that the amount of gratuity received by an employee on leaving service may be spread over at least for a period of 3 years commencing from the year subsequent to the year of leaving the service of the employer. Alternatively, my Committee would suggest that the payment received under the scheme of gratuity shall at least be considered as income accruing to the employee in the year subsequent to the year of his leaving the service and assessed to tax as income of that year.

My Committee hope that the Board would take into account the need for some relief in the matter of taxation of amounts received under Schemes of Gratuity and accept the suggestion mentioned above.

*Letter No. 42(53)-I.T./57 dated 27th April 1957 from the Central Board of Revenue to Chamber.*

I am directed to refer to your letter No. 886 dated the 13th April 1957 and to state that Section 60(2) of the Income-tax Act provides for the grant of relief by the Central Government in cases where an employee is taxed by reason of the receipt of a gratuity at a rate higher than that at which he would otherwise have been taxed. This relief would be given if the employee applies for it through the Income-tax Officer. The Board do not consider that any further relief is called for.

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## APPENDIX 18

### **Indian Income-tax Act—Section 10(2)(vi)—Allowance of Initial Depreciation**

*Letter No. 777 dated 28th March 1957 from Chamber to the Central Board of Revenue.*

Section 10(2)(vi) of the Indian Income-tax Act provides *inter alia* for an initial depreciation allowance in addition to the usual depreciation allowance in respect of buildings newly erected or machinery or plant newly installed after the 31st March 1945. On a strictly legal interpretation of this provision it has been held that an assessee would be entitled to claim this initial depreciation on a building newly erected by him or machinery or plant installed by him after the relevant date only if the building or the plant and machinery was used for purposes of the business in the accounting year. In a recent case, the Bombay High Court held that in order to enable an assessee to claim the initial depreciation three conditions have to be satisfied, viz. that (1) a business must be carried on by the assessee, (2) for the purpose of the business the building must be erected in the year of account and (3) the building must be used for purposes of the business.

While giving this judgment the learned Judges expressed that they were fully conscious of the anomaly and inconvenience which was likely to be caused to an assessee by putting such an interpretation upon Section 10(2)(vi). The Committee of the Indian Merchants' Chamber desire to point out that the object in allowing initial depreciation being to give an impetus to businessmen and industrialists to start new factories and to

instal new machinery, it is but proper that initial depreciation should be granted in cases where the building is erected or the plant and machinery are installed in the year of account even though they may not have been used for the business of the assessee in that year.

In this connection, my Committee would invite the attention of the Board to the following passage from the Judgment of the learned Judges of the Bombay High Court in the case above referred to, reported in 1957—31 I.T.R., p. 203:

“Before we part with this reference, we must draw the attention of the taxing authorities to the obvious injustice which the assessee company has suffered by reason of what we must consider to be a lacuna in the law. If the intention of the Legislature was to give an impetus to an assessee who sets up new buildings and installs new machinery, then there is no reason why this particular assessee should not get the benefit of initial depreciation. There is no reason on principle why this assessee should have got the benefit of initial depreciation if it had completed its building a few months before the year of account and had commenced production. We, therefore, request the authorities to sympathetically consider the case of the assessee and to give such relief as they think proper.”

In view of the above observations of the learned Judges, my Committee would request the Board to issue executive instructions for giving initial depreciation to such cases the facts of which are similar to the one considered by the learned Judges of the High Court and if necessary to take such steps as may be required for amending the law for giving effect to the opinion expressed by the Bombay High Court.

*Letter No. 27(22)-I.T./57 dated 9th April 1957 from the Central Board of Revenue to Chamber.*

I am directed to refer to your letter No. 777 dated the 28th March 1957 and to state that instructions have already been issued in June 1956 to all Income-tax Officers to allow initial depreciation in the first year of use of the newly erected machinery or newly erected building in question. If the relief has not been given in any particular case, the Board may please be informed of the details of the case.

## APPENDIX 19

### **Indian Income-tax Act—Section 16(2)—Grossing up of Dividends**

*Letter No. 776 dated 28th March 1957 from Chamber to the  
Central Board of Revenue.*

As the Central Board of Revenue are aware, prior to the amendment of the proviso to sub-section (2) of Section 16 of the Indian Income-tax Act by the Finance Act, 1956, dividends declared by a company from the profits of previous years, which had already been subject to tax, were not grossed up on the plea that the company was not liable to income-tax on these amounts in the relevant assessment year. Though assessee in respect of whose assessments substantial amounts were involved and who were in a position to obtain necessary advice and test the decisions of the Income-tax Officers in appeal, filed appeals before the Appellate Assistant Commissioner, many poor assessee who did not have the benefit of such advice did not file appeals. As the decisions taken by the Income-tax Officers did not appear to be proper and arose out of a misconstruction of the relevant provision, representations were made to Government for a clear clarification of the implications of the relevant position and this was done by recasting the proviso by the Finance Act of 1956 and giving the necessary relief in respect of grossing up.

However, those assessee who did not file appeals against the orders of the Income-tax Officers as well as those whose appeals were dismissed by the Appellate Assistant Commissioners but could not proceed further before the Tribunal or before the Commissioner of Income-tax were not in a position to avail of the benefits arising from the clarificatory amendment made in 1956. While assessee who made refund applications after the amendment got the benefit of grossing up, those who had already submitted applications before the said amendment were deprived of the relief.

My Committee feel that this discriminatory treatment is not justifiable and requires to be set right. They, therefore, request that necessary departmental instructions on the following lines may be issued with a view to remedy the hardship and injustice caused to those assessee who have been deprived of the benefit of the relevant provision of the amended proviso for no fault of theirs:

- (1) By rectifying under Sec. 35 of the Act those assessments where dividends paid from past profits have not been grossed up;
- (2) By granting relief under Sec. 48 of the Act by requiring the assessees to submit fresh refund applications.

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## APPENDIX 20

### **Meeting with Shri M. K. Venkatachalam, Deputy Secretary, Ministry of Finance, Government of India**

*Points for discussion with Shri M. K. Venkatachalam, Deputy Secretary, Ministry of Finance, Government of India on matters connected with the Central Sales Tax Act on Friday, the 27th September 1957, at 4.00 p.m.*

#### *(1) Inter-State Sales Tax on goods meant for export:*

When an article meant for export from one State is to be imported from another State, it bears inter-State sales tax at 1% under the Central Sales Tax Act. It has been represented to us that this tax is found to be burdensome by the export trade which is meeting with keen competition in the overseas markets. The Export Promotion Committee (1948) had observed that the levy of sales tax on exports at any stage has the effect of export duty and reduces the competitive capacity of our export products in the overseas markets *vis-a-vis* similar products from other supplying countries. Having regard to the imperative need for promotion of our exports in the context of the present acute foreign exchange difficulty faced by the country, it is essential to see that the competitive capacity of our various export products is increased by reducing the burden of imposts thereon as much as possible. Towards that end, we would suggest that suitable provision be made in the Central Sales Tax Act for grant of rebate of the inter-State sales tax paid on goods imported from one State into another for the purpose of exports.

#### *(2) Applicability of the Central Sales Tax on sales of goods made in the course of inter-State trade to dealers in the State of Jammu and Kashmir:*

The Collector of Sales Tax of the Bombay State issued a Circular towards the end of July last, clarifying that a dealer from the State of Bombay making a sale in the course of inter-

State trade or commerce to a purchaser in the State of Jammu and Kashmir would be liable to pay Central sales tax calculated in the manner provided for in Section 8(2) of the Central Sales Tax Act. The attention of the Chamber was subsequently drawn to a Notice issued by the Kashmir Chamber of Commerce to the effect that, according to the advice received by it from the Central Government, no sales tax under the Central Sales Tax Act was payable on inter-State sales by dealers in the State of Jammu and Kashmir to dealers in other States in the Indian Union or on inter-State sales by the dealers in other States to dealers in the State of Jammu and Kashmir. When the Collector of Sales Tax was requested to clarify the exact position in the matter, he stated that the position as stated in the Notice issued by the Kashmir Chamber of Commerce was correct only to the extent that no sales tax was leviable on sales by Jammu and Kashmir dealers in the course of inter-State trade to parties in other States. It was, however, added that the Notice of the Kashmir Chamber of Commerce was not correct in stating that no tax was leviable on the sales by the dealers of other States in the course of inter-State trade to dealers in Jammu and Kashmir State. Thus, according to the interpretation of the Sales Tax Department of Bombay, a dealer from the State of Bombay selling and despatching goods to a dealer in the State of Jammu and Kashmir will have to pay Central sales tax collected in the manner prescribed in Section 8(2) of the Central Sales Tax Act, i.e. at the rates chargeable on *intra-State* sales under the Bombay Sales Tax Act, 1953. We, however, understand that certain States like West Bengal are not levying sales tax under the Central Sales Tax Act on inter-State sales effected by the dealers in those States to parties in the State of Jammu and Kashmir. This has resulted in discrimination between the dealers of the States like Bombay which are levying inter-State sales tax on sales made by the dealers within their jurisdiction to the dealers in the State of Jammu and Kashmir and the dealers in other States which are not levying inter-State sales tax on such transactions. We would urge that this point should be considered at an early date, with a view to adopting a uniform policy by all the States in the matter of levy of sales tax on inter-State sales to dealers in the State of Jammu and Kashmir.

In case the decision to levy sales tax on inter-State sales by the dealers in the various States in the Indian Union to parties in the State of Jammu and Kashmir is adhered to, there is one point which we would like to urge for Government's

consideration. The wording of sub-section (2) of Section 1 of the Act to the effect that "It extends to the whole of India except the State of Jammu and Kashmir" led the dealers to believe that sales effected by them to the parties on the same basis as exports outside the territory of India for purposes of the Act and so not liable to the levy of inter-State sales tax under the Act. There was some time-lag between the commencement of the levy of inter-State sales tax under the Act and the clarification issued by the Sales Tax Authorities regarding sales to Jammu and Kashmir dealers. The position was clarified by the Sales Tax Department of the Bombay State, for instance, only at the end of July last. The dealers who had made sales to the parties in the State of Jammu and Kashmir in the meantime had not collected inter-State sales tax thereon. It is, therefore, suggested that sales made by the dealers to the parties in the State of Jammu and Kashmir prior to the clarification should, as a special case, be treated as exempt from the levy of inter-State sales tax, if no tax was collected on such sales by the selling dealers concerned.

(3) *Goods required for use in the manufacture of other goods for sale:*

Section 8(1) of the Central Sales Tax Act provides for the levy of inter-State sales tax at the preferential rate of 1% on goods other than declared goods specified in the Certificate of Registration of the registered dealer purchasing goods as being intended for use by him in the manufacture of goods by sale. The goods which would come within the purview of this preferential rate have to be specified by the Sales Tax Authorities concerned. Until recently, the Sales Tax Authorities of the State of Bombay were allowing only those items which went in the manufacture of the finished article as raw materials or component parts. Even important machines, spare parts and engineering stores without which no manufacturing process could be carried on were disallowed in certain cases by those Authorities. As against this, the Sales Tax Authorities of some of the other States like the Punjab and Bihar have been allowing all such items. On representations made to him, however, the Collector of Sales Tax, Bombay, issued a Circular towards the end of the last month, announcing Government's decision to specify in the Registration Certificates issued to manufacturers, processors and contractors under the Central Sales Tax Act, the following goods which could be purchased on declarations in Form 'C', namely, raw materials, processing

materials, machinery, spare parts, plant, tools-equipment, fuels, lubricants, etc., which are intended to be used in the manufacture or processing of goods for sale in the execution of contracts. As per this Circular, Certificates of Registration already issued under the Central Sales Tax Act would be amended accordingly, so as to include the above-mentioned ancillary goods therein. While the issue of this Circular means an improvement over the position obtaining previously, we would like to emphasize that all goods which are required for the manufacture of finished products should, as a matter of course, be allowed the benefit of the preferential rate of 1% for inter-State sales tax. Further, we would suggest that there should be uniformity in the policies followed by the Sales Tax Authorities of the different States in this regard.

(4) *Levy of Sales Tax on inter-State sales to manufacturers and processors:*

Under the provisions of Section 8 of the Central Sales Tax Act, in the case of 'declared goods', the benefit of the preferential rate of 1% for inter-State sales tax is available only if the goods are sold for the purpose of resale and not for the purpose of use in the manufacture or processing or for use in the execution of any contract. 'Declared goods' sold by a registered dealer in one State to manufacturers or processors or contractors in another State are, therefore, liable to inter-State sales tax at the rate prevailing in the exporting State under the General Sales Tax Law of that State. The exclusion of the 'declared goods' from the benefit of the preferential rate of 1% may be justified on the ground that the Central Sales Tax Act imposes a maximum limit of 2% on the rate of sales tax or purchase tax levied under the sales tax laws of the States on such goods. It should, however, be pointed out that, when goods are sold by the producers or importers in one State to manufacturers, processors, or contractors in another State, the 'declared goods' which are considered as of special importance in inter-State trade or commerce would be subject to tax upto 2%, whereas other goods would be taxed only at 1%. Apart from this anomaly, the point requires to be considered from the viewpoint of reducing the cost of production of the finished products, in which the 'declared goods' are used. We would, therefore, urge for Government's consideration the feasibility of including even the 'declared goods' sold to manufacturers, processors, etc. within the purview of the preferential rate of 1% levied on inter-State sales.

(5) *Goods sold in the course of inter-State trade by transfer of Documents of Title to the goods, such transfer taking place in the State of the Purchasing Dealer:*

When goods are despatched by a dealer in one State to a dealer in another State and delivery of the same given to the buyer by transfer of documents of title to the goods, such as R/R in the buyer's State, the question arises as to which is the 'appropriate authority' entitled to levy inter-State sales tax on this transaction. The point is not quite clear from the provisions of the Act and the Rules made thereunder, and the same requires clarification at an early date. In our opinion, it is the exporting State which should be entitled to levy inter-State sales tax on such transactions. This would be necessary also from the point of view of avoiding a situation whereunder a State Government would impinge administratively upon the dealers of another State, if the importing State were allowed to levy tax on such transactions—a situation which had caused a good deal of harassment and hardship to the traders throughout the country for a long time prior to the Judgment of the Supreme Court dated 6th September 1955. At any rate, the point should be clarified as early as possible, so as to remove the feeling of suspense prevailing among the traders on this score.

(6) *Goods Returned:*

Under the Central Sales Tax Act, as it obtains at present, no provision has been made for the refund of the amount of tax paid on goods, which are returned. Such a provision obtains under the General Sales Tax laws of most of the States. We would suggest that similar provision be made in the Central Sales Tax Act also, so as to allow refund of the amount of tax provided for under that Act on goods which are returned to the selling dealer in a specified period.

(7) *Provision for Revised Returns:*

There is no provision under the Central Sales Tax Act for submission of revised returns. Sometimes, dealers may notice *bona fide* mistakes in their returns, after the same have been submitted to the Sales Tax Authorities concerned. They would not, however, be able to submit revised returns in such cases for want of provision under the Central Sales Tax Act in that regard. The Sales Tax laws of most of the States contain a provision permitting submission of revised returns. We would suggest that a similar provision should be made in the Central Sales Tax Act also.

(8) *Levy of Tax under Sec. 8(2) on Sales by Manufacturers and Importers in Bombay State and those by other dealers in the State:*

A question was raised as to what would be the rate of Central sales tax that would be payable by a dealer registered under the Central Sales Tax Act, who had purchased goods on declarations in Forms J and K prescribed under the Bombay Sales Tax Act and sold them in the course of inter-State trade to a dealer in another State not registered under the Central Sales Tax Act or to a consumer in that State. The Collector of Sales Tax, Bombay, has clarified that the rate at which the Central sales tax would be payable in such cases will be equivalent only to the general sales tax payable under the Bombay Act.

A dealer in Bombay State purchasing goods from another dealer in the State, being a manufacturer or an importer on declaration in Forms J and K has not to pay any tax under the Bombay Sales Tax Act. When he, in turn, sells the goods to a dealer of another State, not registered under the Central Sales Tax Act or to a consumer in that State, in terms of the above clarification of the Collector of Sales Tax, he will have to pay inter-State sales tax at the rate equivalent to the rate of general sales tax leviable under the Bombay Act. On the other hand, the manufacturer or the importer, from whom the selling dealer in question has purchased goods, himself sells the goods to a dealer of another State not registered under the Central Sales Tax Act or to a consumer in that State, the tax payable by him under the Central Act on such a transaction will be equivalent to the sum-total of both the sales tax and the general sales tax levied under the Bombay Sales Tax Act. As a result of the working of the Bombay Sales Tax Act and the Central Sales Tax Act, the manufacturers and importers are thus placed in a disadvantageous position *vis-a-vis* other dealers, who buy goods from them under Certificates in Forms J and K prescribed under the Bombay Sales Tax Act, in the matter of inter-State sales to unregistered dealers and consumers in the other States. The difference in the amount payable as inter-State sales tax by manufacturers or importers in the State of Bombay on their sales to unregistered dealers or consumers in other States and that payable by other dealers in the State buying goods from the manufacturers or importers under Certificates in Forms J and K under the Bombay Act on similar transactions is, in the case of certain goods, substantial.

We are bringing this anomaly to your attention, with the hope that suitable modifications and adjustments in the present position will be made, so as to ensure that no hardship is caused to any particular section of the trade as a result of the working of the sales tax measure.

(9) *Sales by transfer of documents:*

Section 3 of the Central Sales Tax Act lays down that the sale or purchase of goods shall be deemed to take place in the course of inter-State trade or commerce if the sale or purchase—

- (a) occasions the movement of goods from one State to another;
- (b) is effected by a transfer of documents of title to the goods during their movement from one State to another.

In some of the trades, according to the normal methods of business, sales by transfer of documents are effected 2 or 3 or even 4 times before the delivery of the goods is taken by the ultimate buyer. By virtue of the provisions of Section 3, as above, every such sale by transfer of documents of title to goods would attract inter-State sales tax under the Central Sales Tax Act. The addition of tax at every stage in this way only adds to the cost structure of the article. We would, therefore, suggest that, with a view to preserving the normal methods of business prevalent in some of the trades over a number of years and with a view to reducing the incidence of the Central sales tax on inter-State sales of the goods in question, the provisions of Section 3 of the Central Sales Tax Act should be modified so as to ensure that inter-State transactions should be subject to inter-State sales tax only at the point at which there is a sale by a dealer in one State to a dealer in another State.

(10) *Declaration in Form 'C'—Responsibility for:*

On the question of responsibility in regard to declarations in Form 'C' furnished by the purchasing dealer to the selling dealer, we understand that the Sales Tax Department of Bombay holds the view that the responsibility is primarily of the selling dealer and he must see to it that the dealer furnishing declarations in Form 'C' is, in fact, entitled to give the same. We would point out that in the very nature of things it is not proper to fasten the responsibility on the selling dealer. There would be practical difficulties in the selling dealer being able to find out whether the purchasing dealer is

entitled to issue declarations which the selling dealer has received. The proper course would be that, if necessary, the Sales Tax Authorities of the State of the selling dealer should make a reference to the Sales Tax Authorities of the State of the buying dealer and find out whether the declaration the buying dealer has furnished to the selling dealer is proper and in order. In any case, the selling dealer should be absolved from any responsibility regarding declarations furnished to him by the purchasing dealer.

(11) *Form 'A' prescribed under the Central Sales Tax (Registration and Turnover) Rules:*

We have all along emphasized the need to keep the number of Forms prescribed under a Sales Tax Law as low as possible and also to see that the forms are simple and require the dealers to furnish only the relevant information. From that point of view, we feel that Form 'A' prescribed under the Sales Tax (Registration and Turnover) Rules could be revised with a view to its simplification. For instance, Entry 8 therein requires the dealers to furnish particulars relating to their registration, licence, etc. issued *under any law* for the time being in force. There is no reason why these particulars should be required to be furnished by the dealers as they do not appear to be relevant to the purpose of registration under the Act. We would suggest revision of the Form 'A' with a view to deleting therefrom entries which ask for information which is not relevant.

(12) *Form 'C' (Declaration Form):*

There is one point which we would like to bring to your notice in connection with Form 'C' (Form of Declaration) prescribed under the Central Sales Tax (Registration and Turnover) Rules, 1957, and to be used at the time of making purchases from out-of-State sellers. Purchasing dealers are required in that Form, among other things, to certify that the goods purchased by them are for resale or for use in the manufacture of goods for sale or for use in the execution of contracts or for packing of goods for resale. Although Section 8(3) provides for purchase of containers or other materials used for the packing of goods by the manufacturers or processors at the preferential rate of 1%, Form 'C' does not contain a column under which the manufacturers or processors could make a declaration in the Form to that effect. We would urge addition of this column in Form 'C', in order to bring it in conformity with the provisions of the Act.

(13) *Deduction of the amount of sales tax from the gross turnover for the purpose of arriving at the taxable turnover:*

No provision is made under the Central Sales Tax Act for deduction of the amount of sales tax from the gross turnover for the purpose of arriving at the taxable turnover. Such a provision exists under the Sales Tax Laws of the States. Even the Forms of Returns prescribed under the State Sales Tax Laws provide for deduction of the sales tax from the gross turnover for arriving at the taxable turnover. The absence of such a provision results in an anomaly of the tax being recovered by the Sales Tax Department on the tax collected by a dealer from his purchaser. We would, therefore, suggest that a suitable provision allowing deduction of the amount of sales tax from the gross turnover for arriving at the taxable turnover should be made under the Central Sales Tax Act.

(14) *Form IIIB (Form of Return) prescribed under the Central Sales Tax (Bombay) Rules—Signed copy of the sales register prescribed under the Rules to be enclosed with the Form of Return:*

Item No. 12 in the Return Form (Form IIIB) under the Central Sales Tax (Bombay) Rules requires a dealer to enclose with his return a signed copy of the sales register to be kept by him under the Rules. In our opinion, submission of a signed copy of the sales register with the return is not necessary, as the register can be checked and examined at the time of assessment. Sending of a copy of the register with the return involves avoidable clerical work. We would suggest that the form of return should be amended so as to delete therefrom the clause requiring dealers to send signed copies of the sales register along with their returns.

Item 12 in the Form of Return previously also required dealers to enclose with their returns original copies of each of the Declarations received by them from the purchasing dealers in the other States. On representations from the various sections of the trade to the effect that the compliance with this requirement involved unnecessary inconvenience, the Sales Tax Department of the Government of Bombay decided not to insist on the compliance of this requirement and consequently it is not now necessary for dealers furnishing returns under the Central Sales Tax Act to enclose with their returns copies of the Declarations in Form 'C' received by them from the purchasing dealers. In the same way, for reasons pointed out

above, we would suggest that the dealers should not be required to submit copies of the sales register with their returns. We may add that if our suggestion is accepted item 12 will have to be deleted from the Form of Return.

### SUMMARY OF REPLIES OF SHRI VENKATACHALAM

#### (1) *Inter-State Sales Tax on goods meant for export:*

The Chamber had drawn attention to the fact that the inter-State sales tax levied on goods imported from one State into another for the purpose of export outside the country was found to be burdensome by the export trade which is meeting with keen competition in the overseas markets. The Chamber, therefore, suggested that suitable provision be made in the Central Sales Tax Act for grant of rebate of inter-State sales tax paid on goods imported from one State into another for the purpose of export. Shri Venkatachalam observed that Government themselves were aware of the need to give relief to the export trade in regard to the inter-State sales tax levied on goods imported from one State into another for the purpose of export. There were, however, difficulties in evolving a suitable administrative provision for the same. Government would welcome suggestions from the trade regarding a suitable working formula.

#### (2) *Applicability of the Central Sales Tax on sales of goods made in the course of inter-State trade to dealers in the State of Jammu and Kashmir:*

The Chamber referred to the Circular issued by the Sales Tax Department of the Government of Bombay stating that a dealer from the State of Bombay selling and despatching goods to a dealer in Jammu and Kashmir has to pay Central sales tax collected in a manner prescribed in Section 8(2) of the Central Sales Tax Act, i.e. at the rates chargeable on intra-State sales under the Bombay Sales Tax Act, and sought the confirmation of the Central Government on this interpretation, in view of a different view that was taken in certain quarters, according to which sales made by the dealers in any State in the Indian Union to the dealers in Jammu and Kashmir State were not subject to Central sales tax. Shri Venkatachalam in the course of his reply to this point, confirmed the above interpretation of the Bombay Sales Tax Department, which he said, was in conformity with the interpretation of the Central Government in the matter.

(3) *Goods required for use in the manufacture of other goods for sale:*

The Chamber suggested that all goods which were required for the manufacture of finished products should, as a matter of course, be allowed the benefit of the preferential rate of 1% for inter-State sales tax. It further suggested that there should be uniformity in the policies followed by the Sales Tax Authorities in the different States in this regard. Shri Venkatachalam said that the question had already been engaging the attention of the Central Government. Government were considering drawing up, in consultation with the various States, separate lists enumerating the items that were required for the purpose of manufacture by certain industries of an all-India importance such as textiles, sugar, jute, heavy chemicals, etc., and which could be purchased at the preferential rate of 1%, in accordance with the provisions of the Central Sales Tax Act by those who were engaged in these industries. Government would welcome suggestions from the trade in regard to the drawing up of these lists. As for the industries having local importance, the matter would be left to the State Governments concerned.

(4) *Levy of Sales Tax on inter-State sales to manufacturers and processors:*

The Chamber referred to the fact that 'declared goods', when sold by a dealer in one State to the manufacturers in another State, were subject to Central sales tax not at the preferential rate of 1% but at the rate obtaining in the exporting State under its own sales tax law. It was pointed out that the rate of tax leviable in this way on 'declared goods' might amount upto 2% and this would increase the cost of production of the finished product. Shri Venkatachalam said that the levy of the Central sales tax on sales of declared goods to manufacturers in another State at the above rate was provided for in the Act intentionally so as to keep the incidence of the tax on the goods coming from other States and that on the goods of the local origin on an even basis.

(5) *Goods sold in the course of inter-State trade by transfer of Documents of Title to the goods, such transfer taking place in the State of the Purchasing Dealer:*

When goods are despatched by a dealer in one State to a dealer in another State and delivery of the same given to the buyer by endorsing documents of title to the goods such as

R/R in the buyer's State, the question arises as to which is the appropriate State entitled to levy inter-State sales tax. The Chamber sought clarification on this point and opined that the exporting State should be entitled to levy inter-State sales tax on such transactions, as otherwise, if the importing State were to levy tax on such transactions, we would be reverting to the earlier situation, whereunder, the dealers of one State were administratively impinged upon by the Governments of other States. Shri Venkatachalam said that Government fully saw the force underlying the Chamber's suggestion and added that the same would be carefully examined.

(6) *Goods returned—Refund of Tax:*

The Chamber suggested that a provision be made in the Central Sales Tax Act for refund of the amount of tax paid on goods which were subsequently returned in a specified period. Shri Venkatachalam said that provision would be made in the rules for grant of refund of the Central sales tax paid on goods which are returned by the buyer to the selling dealer within a period of 3 months from the date of delivery.

(7) *Provision for Revised Returns:*

The Chamber suggested that a provision should be made under the Central Sales Tax Act permitting submission of revised returns by the dealers. Shri Venkatachalam said that instructions were being issued to the Sales Tax Departments of the various States to permit dealers to submit revised returns within a specified period.

(8) *Levy of tax under Section 8(2) on sales by manufacturers and importers in Bombay State and those by other dealers in the State.*

The Chamber drew attention to the anomaly of the difference in the amount of Central sales tax payable by manufacturers or importers in the Bombay State on their sales to unregistered dealers or consumers in other States and that payable by other dealers in the State buying goods from the manufacturers or importers under Certificates in Forms 'J' and 'K' under the Bombay Act on similar transactions. Shri Venkatachalam said it was a matter with which the State Government was concerned.

(9) *Sale by transfer of documents:*

The Memorandum referred to normal methods of business in certain trades, whereunder sales were effected by transfer of

documents more than once before the delivery of the goods was taken by the ultimate buyer and stated that the levy of tax on every such sale added to the cost structure of the article. It was, therefore, suggested that with a view to preserving the normal methods of business prevalent in some of the trades and with a view to reducing the incidence of Central sales tax on inter-State sales, the provisions of Section 3 of the Central Sales Tax Act should be modified so as to ensure that inter-State transactions would be subject to inter-State sales tax only at the point at which there is a sale by a dealer in one State to a dealer in another State. Shri Venkatachalam said that the suggestion of the Chamber would be examined.

(10) *Declaration in Form 'C'—Responsibility for:*

The Chamber observed that it was not proper to fasten the responsibility in regard to declarations in Form 'C' on the selling dealer as was being done by the Sales Tax Department of the Bombay State. The Chamber suggested that the selling dealer should be absolved from any responsibility regarding declarations furnished to him by the purchasing dealer in another State. Shri Venkatachalam said that the responsibility regarding Declarations in Form 'C' was primarily that of the selling dealer. He appreciated the point which was made out by the Chamber and said that with a view to mitigating the difficulties of the selling dealers, Government were considering measures such as publication of the lists of the registered dealers, etc. They would also consider the question of putting some responsibility on the purchasing dealers themselves.

(11) *Form "A" prescribed under the Central Sales Tax (Registration & Turnover) Rules:*

Referring to Form "A" prescribed under the Central Sales Tax (Registration & Turnover) Rules, the Chamber suggested its revision with a view to its simplification and deletion therefrom all the items which were not relevant. Shri Venkatachalam assured that the suggestion of the Chamber would be carefully examined.

(12) *Form "C":*

Although Section 8(3) provides for purchase of containers or other materials used for the packing of goods by manufacturers and processors at the preferential rate of 1%, Form "C" does not contain a column under which the manufacturers or proces-

sors could make a declaration in the Form to that effect. The Chamber, therefore, urged addition of such a column in Form "C" with a view to bringing it in conformity with the provisions of the Act. Shri Venkatachalam assured that the Form would be suitably modified.

(13) *Deduction of the amount of sales tax from the gross turnover for the purpose of arriving at the taxable turnover:*

The Chamber suggested a suitable provision under the Central Sales Tax Act for deduction of the amount of sales tax from the gross turnover for arriving at the taxable turnover. Shri Venkatachalam said that suitable provision would be made in the Rules.

(14) *Form IIIB (Form of Return) prescribed under the Central Sales Tax (Bombay) Rules—Signed Copy of the sales register prescribed under the Rules to be enclosed with the Form of Return:*

The Chamber pointed out that submission of a signed copy of the Sales Register with the return involved avoidable clerical work and suggested that the requirement should be done away with as the register itself could be checked and examined at the time of assessment. The point was discussed at length and some of the members even suggested that dealers would be prepared to send along with their returns original copies of the Declarations received by them from the purchasing dealers, instead of sending signed copies of the sales register, which was causing a good deal of hardship and inconvenience to the trade. Shri Damry observed at this stage that details of every bill were not required by the Department and that if the general description of the article was given in the sales register, that would be sufficient. When the difficulties caused to the dealers as a result of the requirement of sending copies of the sales register along with the return were stressed by some of the members, Shri Damry said that the department would be prepared to accept copies of the invoices in lieu of the copies of the sales register. A circular would be issued to this effect shortly, he added.

### APPENDIX 21

#### Sales Tax Scheme for the State of Bombay

*Letter No. 1269 dated 3rd June 1957 from Chamber to the Finance Department, Government of Bombay.*

Since the inauguration of the new State of Bombay, different sales tax laws applying to the areas which belonged to the former

States of Bombay, Madhya Pradesh, Hyderabad, Saurashtra and Kutch have been in operation in the respective areas now forming parts of the State of Bombay. The question of introducing a uniform piece of sales tax legislation applicable to all the areas comprising the new State of Bombay is now engaging the attention of Government. The Committee of the Indian Merchants' Chamber would take this opportunity to address Government in the matter, as follows:

Ever since sales tax was introduced in this State, my Committee have repeatedly emphasized the importance of making the sales tax laws very simple, so as to make the same intelligible to all those who are concerned with it. As the obligations in respect of sales tax have to be discharged by a large number of merchants and traders, who normally do not have elaborate organizational facilities, it is necessary to stress the importance of making the tax structure and the formalities prescribed thereunder simple, so as not to cause difficulties of a practical nature in its actual implementation. When the present Two-Point sales tax system which was introduced more than three years ago was on the legislative anvil, my Committee had pointed out that the Scheme was of a very complicated character and the same would give rise to hardship and difficulties in its day-to-day application. The experience of the working of the Scheme during the last three years has amply borne out the fears of the commercial community that the implementation of the Scheme would cause serious hardship to the dealers. There are too many forms required to be filled up by the dealers and the procedure and formalities to be observed by them are also onerous. The complex nature of the provisions in the rules and the intricacies of the different forms have caused a great deal of confusion in the minds of the traders. It may be mentioned that some of the provisions are not clear even to the officials of the Sales Tax Department and the dealers are helpless, when they approach them for clarifications. My Committee would, therefore, reiterate once again, the need to have a simple sales tax system, which would be easily intelligible even to the small trader and which will not involve any complex procedural formalities.

Perhaps, it would be advisable to have an Expert Committee to go into the whole question of finding out a suitable system of sales tax for introduction in the State of Bombay. Such an Expert Body would be able to make a detailed study of the working of the different sales tax systems which are in force in the various States in the Indian Union and in other countries,

as also to ascertain the views and suggestions on the same from the interests concerned and to make recommendations to Government regarding a suitable sales tax scheme for the State. My Committee would, therefore, urge Government to consider the desirability of appointing such an Expert Committee with non-official representatives drawn from the trade and industry thereon to go into the whole matter and to make recommendations to Government regarding a suitable Scheme of sales tax for the State.

My Committee hope and trust that the Government will give the matter their early consideration and inform them of the action proposed to be taken in connection with the same.

*Letter No. STA. 1057/168952/G-1 dated 3rd July 1957 from the Finance Department, Government of Bombay, to Chamber.*

With reference to your letter No. 1269 dated the 3rd June 1957 on the above subject, I am directed to state that the suggestions made in the letter have been noted. The appointment of a Committee of Experts is under consideration of Government as stated in the Governor's address to the Houses of the Bombay Legislature.

## APPENDIX 22

### A Bill to amend certain Laws relating to the levy of Tax on the Sale or Purchase of Goods in the State of Bombay

*Letter No. 697 dated 20th March 1957 from Chamber to the Finance Department, Government of Bombay.*

The attention of the Committee of this Chamber has been drawn to L.A. Bill No. IX of 1957 published in the *Bombay Government Gazette* (Part V) dated the 14th March 1957. The Bill seeks to amend the various Sales Tax laws which are in operation in the different parts of the Reorganised State of Bombay, so as to bring them in conformity with the provisions of the Central Sales Tax Act, 1956. The other object of the Bill is to adjust, in terms of the decimal coinage, to be introduced with effect from the 1st April 1957, the rates of tax levied under the different Sales Tax laws in the State of Bombay.

There is one point to which my Committee would like to refer in connection with the Bill. The adjustment of the

rates of tax in terms of the decimal coinage system has necessitated amendments of certain Sections of the Acts and the Schedules appended thereto, giving rates of tax on the different commodities. In the course of these amendments, the words "Seven Naye Paise" have been substituted for the words "Twelve pies". The equivalent in Naye Paise of Twelve pies rounded off in the manner prescribed in Section 14(2) of the Indian Coinage (Amendment) Act, 1955, is Six Naye Paise and not Seven Naye Paise. For the words "Twelve pies", therefore, the words "Six Naye Paise" and not "Seven Naye Paise" should be substituted. Probably, "Seven Naye Paise" has been mentioned through oversight. My Committee have thought it fit to bring the matter to the notice of Government, so that the same may be set right, as otherwise, the implications of the mention of the words "Seven Naye Paise" would be of a far-reaching character, inasmuch as it would make a substantial difference in the incidence of the tax in the aggregate.

It is hoped that Government will give the matter their immediate attention and inform the Chamber of the action taken in connection with the same.

*Letter No. 989 dated 29th April 1957 from Chamber to the Government of Bombay.*

The Bombay Sales Tax Laws (Amendment) Act, 1957, which has been brought into force from the 8th April 1957, has amended the various sales tax laws which are in operation in the different parts of the reorganised State of Bombay, so as to bring them in conformity with the provisions of the Central Sales Tax Act, 1956. Another important amendment made by the latest legislation is to adjust the rates of tax levied under the different sales tax laws in the State of Bombay in terms of the decimal coinage system. When the Act was in the Bill form, the Committee of this Chamber had addressed a communication to Government, pointing out that the equivalent in Naye Paise of Twelve Pies rounded off in the manner prescribed in Section 14(2) of the Indian Coinage (Amendment) Act, 1955, was Six Naye Paise and not Seven Naye Paise and that, therefore, for the words "Twelve Pies" the words "Six Naye Paise" and not "Seven Naye Paise" should have been substituted. The Committee had thought that "Seven Naye Paise" had been mentioned through oversight.

The fact that the Bill has been enacted into law and brought into force with "Seven Naye Paise" instead of "Six

"Naye Paise" as equivalent of Twelve Pies shows that the mention of Seven Naye Paise was intentional and not an oversight. The Committee of my Chamber have examined in greater detail the provisions of the new legislation in so far as they relate to the adjustment of the sales tax rates in terms of the new coinage system and they find that the cumulative effect of the adjustments of the various rates will be to increase the overall incidence of sales tax to an appreciable extent. This has led to the general belief that Government have taken advantage of the opportunity of converting the sales tax rates in terms of the new coinage system to enhance the incidence of sales tax in a concealed manner. My Committee are, therefore, of the opinion that Government should have studiously avoided adjustment of the rates of sales tax in terms of the decimal coinage in a manner which will have the effect of increasing the incidence of the tax.

*Letter No. STA-1057/161594/G-1 dated 15th June 1957 from the Government of Bombay to Chamber.*

With reference to your letter No. 989 of the 29th April 1957, on the above subject, I am directed to state that looking to the general turnover of sales of articles covered by entries 41 to 78 of the Schedule B to the Bombay Sales Tax Act, 1953, in whose case a sales tax of 12 pies and a general sales tax of 6 pies were both leviable, the increased yield of revenue by way of sales tax at the rate of 7 naye paise in place of 12 pies in the rupee is estimated to be less than Rs. 19 lakhs, while the decrease in yield by way of General Sales Tax on the same items at the rate of 3 naye paise in place of 6 pies in the rupee comes to Rs. 16 lakhs approximately. It can thus be seen that in regard to the said items the additional yield will be about Rs. 3 lakhs which cannot be considered to be an inordinate gain for Government. I may also state that in so far as the items of cloth and clothing are concerned, including entry No. 79 of Schedule B relating to Textile fabrics, it is estimated that there will be an actual decrease in yield of about Rs. 5 lakhs per year in view of adjustment of the rates of Sales Tax and General Sales Tax in terms of decimal coinage.

I am to request that position stated above may please be brought to the notice of the members of your Association.

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**APPENDIX 23****Position of Commission Agents vis-a-vis Sales Tax**

*Circular letter No. B447-57(445) dated 29th May 1957 issued by the Collector of Sales Tax on the above subject.*

In continuation of this office Circular letter No. B-431-57 (397) dated the 30th April 1957 and subsequent circular letter No. B-445-57(445) dated the 24th May 1957 it may be clarified that it is for the commission agent to decide in each case whether in a particular transaction he is merely an agent or a principal dealer. In the former case, he will not be able to purchase the goods on a tax-free basis by giving a certificate in Forms J, K, N, etc., and it is open to him to prove that the supply of goods by him to his principal is not a sale. In the latter case, he may give certificates in the forms referred to above like any other registered dealer, and the transaction between him and his principal will have to be included in his turnover as a separate sale, which will be subject to tax under the appropriate sales tax law. Where the Commission Agent has so included the transaction in his turnover, and does not claim that it is not a sale, he will be regarded as having acted as a principal dealer even if the relative bill or invoice given by him shows separately the original purchase price of the goods, the commission and other charges, if any.

### III. TRADE, INDUSTRIAL AND LABOUR LEGISLATION

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#### APPENDIX 24

##### **Interpretation of Laws by Judiciary**

*Letter No. 956 dated 25th April 1957 from Chamber to the Ministry of Law, Government of India.*

I am desired by the Committee of the Indian Merchants' Chamber to draw Government's attention to the difficulties and confusion arising out of the varying interpretations on the same or similar points of law given by the different High Courts in India and to stress the need for evolving a solution for ending the difficulties and confusion inherent in the situation.

In terms of the existing system of judiciary in the country, while the decisions of the Supreme Court of India are binding on all the High Courts of the States and the Courts subordinate thereto, the decisions of one High Court are not binding on the other. In order to obtain the final verdict of the Supreme Court on any legal issue, the parties affected have to pass through several stages of appeal and are in the process put to good deal of expenditure and delay. Further, the divergencies in the decisions of the different High Courts lead to transactions being dealt with differently in different States, resulting in loss and injury in many cases. To cite an example, as a result of the passing of the Sales Tax Validation Act, the provisions of which have been interpreted differently by different High Courts, the trading public who have business connections in more than one State have been subjected to considerable difficulties and hardship in respect of their inter-State and intra-State transactions, and it would not be well within the means of all the persons affected to follow up the appellate procedure upto the stage of the Supreme Court with a view to obtain finality on the point of law involved in any particular matter.

Especially at a time when there has been since recently a spate of legislation in the industrial and commercial sphere, difficulties arising out of the heterogeneous interpretations given by the different High Courts in the country are innumerable.

In the circumstances, the Committee of the Chamber would like to make the following suggestions:

Article 143 of the Constitution empowers the Union President to obtain the opinion of the Supreme Court upon any question of law or fact, which is of public importance. While the powers under this Article will generally be utilised by the President on the advice of the Government, my Committee feel that the powers should also be utilised in respect of matters, which have been agitating the public mind and have been brought to the notice of Government by Chambers of Commerce and other interests, concerning points of law or fact of public importance in the domain of trade, commerce and industry. Chambers of Commerce and other interests affected may also be allowed to appear and take part in the proceedings in respect of any such matters before the Supreme Court.

My Committee request that Government will be pleased to give their earnest consideration to the above suggestion.

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## APPENDIX 25

### **Bill further to amend the Life Insurance Corporation Act, 1956**

*Letter No. 2536 dated 25th November 1957 from Chamber to the Ministry of Finance, Government of India.*

The above Bill has been introduced in the Lok Sabha during its last Session. The Bill provides for the setting up of an Investment Board consisting of the Governor of the Reserve Bank of India as Chairman, the Chairman of the Central Board of the State Bank of India and the Chairman of the Life Insurance Corporation as Members. In the Statement of Objects and Reasons appended to the Bill, it has been pointed out that it is now proposed to entrust the work of investment of the funds of the Life Insurance Corporation to the Investment Board so that the Life Insurance Corporation may be able to devote greater attention to its primary task of acquiring new insurance business.

The Committee of the Chamber have given due consideration to the provisions of the Bill and feel that the object which Government have in view would be better served by bringing about such changes and modifications in the constitution of the Investment Board as would make the same more broad-based than is envisaged in the Bill. Moreover, the Investment Board will have to deal with investment of the funds of the Corporation amounting to Crores of Rupees and the policy-holders, whose moneys are in effect being so invested, may

reasonably expect to be assured that this aspect is being looked into by a body composed of persons who have the necessary background of experience for the type of work they are called upon to discharge. My Committee believe that this object could be realised, to a much larger extent, by deciding upon to institute an Investment Board in which, besides Representatives of Official Agencies and Organizations, are included persons drawn from the sphere of commerce and industry, specialised field of investment activity such as stock exchanges, as also Representatives of the policyholders. My Committee, therefore, request Government to give earnest consideration to this aspect and to agree to modify the composition of the Investment Board on the lines of the suggestions made herein, in the larger interest of creating a general sense of confidence among the public in general and in the Life Insurance Policyholders, in particular, in the matter of investment of the moneys of the Corporation.

The same consideration has prompted my Committee to make another suggestion, and that is in regard to the manner and method in which the Investment Board may be required to canalise investment of the funds of the Corporation. It would appear that according to the provisions of the Bill, it is proposed to empower Government to make suitable rules for the purpose. My Committee, however, feel that the more appropriate course for Government would be to provide in the Bill itself a provision indicating the manner in, and the conditions under, which the Investment Board could invest moneys of the Corporation. My Committee quite realise that the laying down of rigid conditions for the purpose may to an extent fetter the discretion of the members of the Investment Board and consequently may come in the way of its smooth functioning. At the same time, however, they feel that some statutory provision should be incorporated in the Act itself, which may serve as general guiding principles to the Investment Board as to the manner and method of investment. In particular, my Committee are of the opinion that some overall limitation should be laid down as to the extent to which funds could be invested in a particular form or scrip. Such a provision, it is felt, may be conducive to instilling a feeling of security in the public emanating from the knowledge that the funds are being handled in the light of the generally accepted criteria as laid down in the Statute. It may be suggested in this regard that any such restriction would come in the way of the Investment Board allocating their investments in the scripts of newly

established industrial units, and in result militate against the latter getting investment support from the funds of the Corporation. My Committee, however, feel that the remedy for the difficulty would lie in the direction of so designing these regulations as would not hamper the discretion of the Investment Board in regard to the extent to which funds should be invested in any particular scrip of a newly established industrial unit. They urge that Government will give their earnest consideration to this suggestion also.

Again, according to the provision of the Bill, if the Chairman of the Investment Board or any other Member thereof was not able to attend any meetings of the Board, the Chairman or such Member, as the case may be, could depute any other person to attend the said meeting and the person so deputed would, for all purposes, of the said meeting be deemed to be a Member of the Board. It has been further provided that if at any meeting the Chairman and the other Members of the Investment Board are all absent, the persons deputed to attend the said meeting shall elect one from among themselves to preside over the said meeting. The considerations on which my Committee have made the above suggestions also make it necessary for them to express their opinion that in the larger interest of the policyholders and the investing public, it would be advisable to provide any provision in the Bill for authorising the members of the Investment Board to depute any other person to be a member of the Board for purposes of a particular meeting. My Committee, therefore, suggest that, in any case, the provision regarding the delegation of authority should be dropped from the Bill.

My Committee request that Government will give early consideration to the suggestions made herein.

## APPENDIX 26

### The Companies Act, 1956

*Letter No. 1335 dated 14th June 1957 from Chamber to the Companies Act Amendment Committee.*

With reference to your letter of the 16th ultimo, I am directed by the Committee of the Indian Merchants' Chamber to send herewith their suggestions for amendment of the Companies Act, 1956, for the consideration of the *Ad Hoc Committee* appointed for the purpose.

*Section 2—Definitions:*

Clauses 3 and 4 of this Section define the term "associate". The definition is too wide to enable a person or a company to comprehend all his or its associates. In many cases, the individual or the company has practically no means to obtain necessary information to enable him or it to determine whether a person is or is not an associate. For instance, in a case where the Managing Agent is a company in order to determine whether another body corporate is or is not its associate not only the names of the partners or relatives of directors or managers of its own or its holding or subsidiary company or the list of the firms in which such directors, managers, partners or relatives are partners would be required to be known, but also it would be imperative to ascertain as to whether any of them individually or jointly with other or others exercise or control  $\frac{1}{3}$ rd of the total voting power of any such other body corporate. It would be beyond the company's power to obtain the necessary information when the person concerned refuses or neglects to respond. In view of this, the following suggestions are made for limiting the comprehensiveness of the term 'associate' without at the same time defeating the object for which it has been evolved.

Where the Managing Agent is an individual his associateship should be confined to his partners and all persons connected with reference to such partners envisaged in the definition should be deleted. In his case associateship with a corporate body should be confined to any body corporate at any general meeting of which not less than  $\frac{1}{3}$ rd of the total voting power may be exercised by any *one* of the following, viz. such individual, relative or relatives, firm or firms and private company or companies. Similarly, suitable changes may be made in the definition where the Managing Agent is a firm or a body corporate.

According to the Explanation to the above clauses defining the term "associate", if A is an associate in relation to B the Managing Agent or Secretaries & Treasurers, B will be deemed to be an associate of A. Since the term "associate" has any meaning only in relation to a Managing Agent or Secretaries & Treasurers it will be seen that B can be an "associate" of A only when A is himself a Managing Agent or the Secretaries & Treasurers of another company. The Explanation will, therefore, require to be redrafted.

Clause (48) defines the word "total voting power" as the total number of votes which may be cast in regard to a matter on a poll, if all the members having a right to vote on that matter are present at the meeting. According to Sec. 87 preference shareholders are entitled to vote only if the matter affects them or the dividends payable to them have not been paid for a particular number of years. Again, Section 295 prohibits the granting of a loan, without going through the formalities therein mentioned, by a company to any body corporate at a general meeting, of which not less than 25% of the total voting power may be exercised or controlled by any director of the company or by two or more directors together. It is not clear whether the 25% voting power mentioned above will include the voting power in respect of preference shares, holders of which are allowed to exercise the same only on certain occasions. If the answer is in the affirmative, it may be pointed out that it will be difficult to know beforehand the total 25% voting power, since this would fluctuate in view of the voting powers in respect of preference shareholding being exercised only on certain occasions. The clause should be so amended as to exclude from the calculations the voting power in respect of preference shares.

#### *Section 6—Relative:*

This Section defines the word 'relative' and the definition envisages relationship by adoption. It seems necessary to clarify that when a person becomes a relative by adoption, the original relations of the adopted person through his birth will not be construed as relatives of the adopting family for the purpose of this Section. Again, according to the definition of the term "relative" two persons will be deemed to be relatives if they are related in the manner mentioned in the Section whether by legitimate or illegitimate descent. It is suggested that illegitimate descent should not be taken into account for purposes of the term "relative". The definition is very wide and this causes great difficulties in the practical working of some of the sections of the Act. These difficulties are being enumerated while dealing with the relevant sections and suggestions for alleviating the difficulties are also being made.

#### *Section 25—Associations, etc.:*

Non-profit making associations registered under the Act have to comply with most of the obligations placed on compa-

nies under the Act. The only exception is that under Section 25 the Central Government may exempt such associations from the obligations under Section 303 regarding particulars of directors, etc. to the extent specified by the Central Government. This exemption is not automatic but has to be secured by the association by making an application under Section 25(6)(d). In practice this exemption is not being given even in such clear cases as the Indian Institute of Bankers and the Federation of Indian Chambers of Commerce & Industry.

Apart from the above, it seems absolutely unnecessary, to say the least, to make non-profit making associations like hospitals liable to comply with the following provisions of the Act, viz. Sections 280, 285, 292, 297, 299 and 301. A considerable amount of time and money can be saved if non-profit making institutions are exempted from complying with the above sections.

#### *Section 49—Investments of company to be held in its own name:*

This Section provides that all investments made by a company should be held in the name of the company and indicates the circumstances under which such investments need not be held in the name of the company. It is suggested that in respect of those cases where investments cannot be held in the name of the company on account of certain provisions of some other law prevailing in the country, they should be allowed to be held in the names of persons other than the company. To give an example, under the Co-operative Societies Act, a limited company cannot be a member of a building co-operative society. Therefore, if a limited company owned certain flats in a building on ownership basis in the name of an individual or his nominee then these rights should be allowed to stand in the name of that individual as nominee of the limited company since the rights cannot be registered in the name of the company, under the Co-operative Societies Act. Again, where shares are refused to be transferred in the name of a company, the investments should be allowed to be held in the name of an individual or his nominee on behalf of the company. Similarly, in cases where the subject-matter is *sub judice* and in circumstances beyond the control of the company, investments may be allowed to remain in the name of an individual or his nominee on behalf of the company.

*Section 73—Allotment of shares and debentures to be dealt in on stock exchange:*

According to this Section where it has been mentioned in the prospectus of a company that application would be made to the stock exchange for the enlistment of its shares such application has to be made within 10 days of the allotment. It is felt that the period of 10 days provided for making the application is very short in view of the numerous requirements and information required by the Stock Exchange in respect of such applications. It is, therefore, suggested that the period of 10 days should be extended to at least 3 weeks.

It has been pointed out that certain stock exchanges do not entertain applications in respect of partly paid shares. It is, therefore, suggested that in respect of such partly paid shares the formalities should be co-related to the time when the shares become fully paid. At the same time, it may be provided that the company while issuing the share capital should also make it clear that the applications would be made within 3 weeks of the shares becoming fully paid and not before.

*Sections 138 and 139—Satisfaction of charges:*

Sub-section (5) of Section 138 provides for recording of satisfaction of charges when the Registrar is satisfied from sources other than the mortgager company that the charge has been satisfied in whole or in part. Presumably, the provision covers report of satisfaction of charge by the mortgagee. But this is not specifically covered either by Section 138 or the Return in Form No. 17. It has been pointed out that the Registrar of Companies has refused to record satisfaction of charges when made by mortgagee companies where no injustice would have occurred to anybody had he taken action on such report of the mortgagee companies. Such a refusal to exercise the discretion vested in the Registrar under Sections 138(5) and 139 defeats the very object of the law in making such a salutary provision. Therefore, if it is felt that the relevant provision does not cast an obligation on the Registrar to record satisfaction when he is satisfied from sources other than the mortgagee company that the charge as a matter of fact has been satisfied and that the power conferred on the Registrar is only discretionary the position may be clarified so as to make the same obligatory.

*Section 163—Inspection of Registers and Returns:*

The above Section requires a company to keep at its Registered Office the Register of Members commencing from the date of the Registration of the company, the Index of Members' Register, and the Index of debenture-holders and copies of all Annual Returns prepared under Sections 159 and 160 together with the copies of certificates and documents required to be annexed thereto under Sections 160 and 161. The above Registers, Returns, etc. are to be made available for inspection by any person whether a member of the company or not during business hours. Pursuant to this provision, a party representing publishers of "Company News" called upon various private companies to give him inspection of the Registers and Returns, etc. There is a genuine feeling that the information gathered by such inspection may be used for extraneous purposes thus causing great harassment to the companies concerned. It is, therefore, suggested that the powers of inspection should be confined to shareholders or persons holding powers of attorney on their behalf.

*Section 166—Annual General Meeting:*

Any annual general meeting next to the first annual general meeting has to be held within nine months after the expiry of the financial year in which the first annual general meeting was held and, thereafter, an annual general meeting has to be held by the company within nine months after the expiry of each financial year. The Registrar has, however, power to extend the time within which the annual general meeting (not being the first annual general meeting) can be held by a further period not exceeding six months. Thus, in the case of a company whose accounts end on the 31st of December, the accounts presentation and the holding of the meeting can take place upto the end of September next and the six months' extension of time would give an intervening period of fifteen months between the last date of the account and the holding of the general meeting. Proviso (d) to sub-section (1) of Section 166 however stipulates that no more than fifteen months shall elapse between the date of one annual general meeting and that of the next. In the case of the company referred to, i.e. a company whose account year ends on the 31st of December, if the 1955 accounts were adopted before the 31st of March 1956, the next meeting would have to be held before the 30th of June 1957 for adopting the 1956 accounts. This leaves a gap of only six months

against the gap of nine months and if for some reason there is a delay of about two or three months, no permission can be granted by the Registrar for allowing the meeting to be held within an extended time of three months, i.e. by the 30th of September 1957. In such cases also the Registrar should have the authority to give an extension of time for holding the annual general meeting but such extension of time should not be beyond the period of three months. Such a further provision will enable companies which might have completed the accounts of one year earlier to hold the next meeting in relation to the next year's accounts within the extended time if for some unforeseen circumstances and reasons they are compelled to ask for an extension as a result of delay in the finalisation of the accounts and audit for the relevant year.

#### *Section 205—Dividends & Depreciation:*

Under Section 205, it has been provided that no dividend will be declared or paid, except out of the profits of the company. The expression 'net profit' is defined in Section 349, but nowhere is the expression 'profits' defined. It may be noted that the provision is not that no dividend can be paid out of the capital, but the provision is that it shall not be paid except out of the profits of the company. The consequences of payment of dividend, except out of the profits of the company, are serious and it is, therefore, desirable to make it certain as to what is included in the connotation of the term 'profits'. The expression 'profits' has been variously interpreted by Chartered Accountants and Lawyers. While one view is that Section 205 does not make a material change and dividend can be declared without providing any depreciation if the directors so think fit, there is another view that full depreciation including the development rebate should be provided for before distributing any amount by way of dividend. There is yet a third view that depreciation may be computed for the period after commencement of the new Act and full depreciation may be provided for that year, but depreciation arrears may not be made good. The fourth view is that only normal depreciation according to the average life of the asset may be provided for and the amount of income-tax and super-tax on the difference between the amount of total depreciation allowable under the Income-tax Act and the amount actually provided should stand provided by way of deferred taxation provision. The view that full depreciation, including the initial, extra and extra shift allowance should be provided for has been propounded by the

learned Attorney-General of India and in view of this position it is very essential that the Companies Act should very clearly lay down as to what amount of depreciation and on what basis should be adjusted and provided in the accounts before the declaration of dividend.

It is also suggested that the amount of depreciation should be considered as a deductible charge in arriving at the amount of divisible profits. In this regard, only the amount of depreciation for the current accounting year need be taken into account and the same should be calculated in the manner prescribed in Section 350. It will not be necessary to make good any arrears of depreciation.

*Sections 269 & 316—Managing Director:*

According to Section 269, in the case of a public company, the appointment of a managing or whole-time director for the first time after the commencement of the Act in the case of an existing company and after the expiry of 3 months from the date of its incorporation in the case of any other company, shall not have any effect, unless approved by the Central Government and shall become void if and insofar as it is disapproved by the Central Government. Section 316 gives one year's time for persons, who are managing directors in more than 2 public companies, to fall in line with the provisions of that Section.

It has been pointed out to us that practical difficulties arise in cases where a company has managing agents and the board of directors for the sake of facility of management sometimes empowers some of the directors to operate the bank accounts and to sign certain contracts, etc. In such cases, it is stated that giving any such powers to a director will make him a managing director, according to definition of that term contained in the Act. It may be mentioned here that the definition of the term 'managing director' states *inter alia* that 'a director who is entrusted with any powers of management, which would not otherwise be exercisable by him, by a resolution of the board of directors would be a managing director'. The directors who are given such powers normally do not draw any special remuneration, except fees for attending Board meetings. If such powers cannot be given to the directors in view of the provisions of Section 269 and such directors cannot continue to exercise any such powers in more than 2 public companies by virtue of Section 316, it would create great hardship. It is, therefore, suggested that it may be specified that, when the board of direc-

tors of a company delegate certain powers to a director, such director would not be deemed as functioning as a managing director unless he exercises the whole or substantially the whole powers of management. And a provision may be made in Section 316 so as to exclude such directors from the definition of 'managing director', so that they may not be affected by the provisions of the said Section.

*Section 292—Powers to be exercised by Board only at Meeting:*

Section 292 covers some of the most important financial transactions in which a company can enter. It appears that the main object of the Section was to take away certain powers from the managing agents and to vest the same in the directors. It is doubtful if the Section was originally intended to apply to director-controlled companies generally and to banking companies in particular.

The application of Clauses (1)(c) and (e) of the Section to banking companies has led to a good deal of difficulty in their day-to-day work and also to certain results which the framers of the law might not have intended at all. The practical effect of these clauses is to compel the directors of banking companies to delegate extensive powers of borrowing and making advances to the branch managers/agents, which they would not otherwise have done. As a result of such delegation, the general manager, under whose direction and control the branch manager/agent acted hitherto, will not now have the same effective authority over the latter. Further, till now, any action by the branch manager/agents in excess of their powers was capable of being made subject to confirmation by the general manager or the board. The scheme underlying Section 292 does not provide for subsequent confirmation of any action in excess of the powers on the part of the branch managers/agents either by the general manager or the board. Consequently, day-to-day working of banks is inconvenienced, as there is now no scope for the exercise of any discretion by the branch managers/agents by way of having their actions endorsed, should they act in excess of their powers, for however short or temporary a duration. As is well known in banking business, occasions arise when temporary accommodation is necessary for the banks' customers, and if this is not done it is bound to affect adversely the bank's cordial relations with them and resultantly the banking business. In order to provide for such occasional contingencies, it has now become essential to delegate to branch managers/agents detailed and vast powers, which otherwise would not have been delegated.

It may be mentioned that, while the Section allows delegation of powers to branch managers/agents, delegation is not allowed to any head office officers other than the manager or the general manager. It is essential that in the head office specified officials, over and above the manager or the general manager, should be given powers to borrow moneys and/or to make loans.

Certain banks have under their Articles of Association or otherwise appointed local committees in several important towns, consisting of people of worth and standing in the local business world, to control and direct the actions of branch managers/agents there. The position of such local committees becomes anomalous, as all powers are now directly conferred by the board on branch managers/agents only. The functions of such local committees would now become merely advisory and no effective check can be exercised by them over branch managers/agents. The local committees deprived of their powers naturally cannot be held responsible for actions of the branch managers/agents. It is felt that the position of banking companies may be weakened through having perforce to invest branch managers/agents with wide uncontrolled powers.

As regards the delegation of powers of directors to borrow moneys, a question has arisen if the acceptance of deposits by a bank from the public, including other banks, constitutes 'borrowing' within the meaning of Section 292(1)(c) of the Act. In support of the view that deposits are borrowings, it is mentioned that Section 292 does not include a provision similar to that contained in Section 293(4). It is felt that it is essential that Section 292 should be amended, so that the acceptance by a bank of deposits from the public and from other banks is expressly excluded from being considered as 'borrowing' within the meaning of Section 292(1)(c). Otherwise, very high limits will have to be fixed under Section 292(1)(c) in order to exclude the possibility of such deposits exceeding the limits laid down. Since the primary function and business of a Bank is to receive deposits and the strength of a bank depends upon the deposits it obtains from the public, it cannot be understood why it should at all be necessary to fix any limit for receiving such deposits by any branch or the head office of a bank. Similarly, while delegating the power to make loans, a limit on the sums to be deposited by the head office or a branch with other banks will have to be included in the limits fixed for making advances. In such cases, too, very high limits will have to be fixed by the

board in the resolution delegating the powers to branch managers/agents in order to preclude the possibility of deposits by the bank with other banks exceeding the sanctioned limits.

In the circumstances, it is suggested that all banking companies be exempted entirely from the operation of clauses (1)(c) and (e) of Section 292, read with clauses (2) and (4) thereof. If, for any reason, same is not practicable, it is suggested that—

- (1) the acceptance of deposits by banks from the public and the placing of moneys on deposit by a bank with another bank should not be deemed either to be borrowing or a loan within the meaning of Section 292;
- (2) delegation of the power to make advances may be allowed to be made in favour of local committees at various branches, and of such officers either at head office or at branches as may be designated by the Board to be principal officers.

#### *Section 293—Restrictions on Powers of Board:*

Section 293(1)(d) prohibits the board of directors of a public company or a subsidiary thereof from borrowing moneys in excess of the aggregate of the paid-up capital of the company and its free reserves. Sub-section (5) of the Section declares a borrowing in excess of such limit to be invalid, unless the lender proves that he advanced the moneys in good faith and without knowledge that the limit had been exceeded. The Section provides that temporary loans from the company's bankers are not to be included in calculating the borrowings of the company. The Section does not, however, state what are deemed to be 'temporary loans' from the company's bankers. Though all bank advances are usually repayable on demand, they are not 'temporary advances' inasmuch as they are not meant usually to be granted for a short period of, say, a couple of weeks. An advance is normally allowed to continue for a period of a year at a time, though repayable on demand. Many advances are continued from year to year, after an annual review. Most bank advances cannot, therefore, be deemed to be 'temporary loans'. It is suggested that all loans, except those on mortgage of fixed assets, obtained by a company from a bank should be exempted from the operation of Section 293(1)(d), whether such loans were granted before or after the Act came into force and whether they are temporary or otherwise, unless the majority of the directors of the company and the bank are the same.

In the alternative, the word 'temporary loans' should be suitably defined by the Act itself and all temporary loans so defined should be exempted in calculating the limit laid down by Section 293(1)(d) whether such temporary loans are obtained before or after the commencement of the Act. The existing subsection (5) casts an undue burden on the lending bank and should be deleted and substituted by a provision to the effect that the lending bank is not concerned to see if the limit prescribed by the said Section is exceeded or not. It may be pointed out that a similar provision is made in Regulation 79 of the Table in the English Companies Act, 1948.

It is felt that Section 293(1)(d) should not be made applicable to borrowings by a bank from other banks, including the Reserve Bank. Hardship will be caused to banks if this Section is made to apply to borrowings made by them either from other banks or from the Reserve Bank. A bank has occasions to borrow at times from the Reserve Bank and/or from other banks large amounts of money which may be in excess of its paid-up capital and free reserves. If the bank concerned should be required to hold a meeting of its shareholders and to obtain their consent to borrow beyond the limit specified by this Section, this will adversely affect its reputation and may cause a withdrawal of its deposits, which will in its turn compel the bank to borrow to a greater extent than before. Further, if a bank whose general body has not passed the requisite resolution, desires in an emergency to borrow beyond the specified limit, it may find itself unable to do so until it has first held a general meeting of its members and obtained the necessary sanction, a process which must take a month at least.

Section 293(1)(d) prohibits the board of directors of a bank *inter alia* from giving time for repayment of any debt due by a director. Whilst bank advances are repayable on demand, they are normally allowed to continue for a year at a time. At the end of the year, all advances, whether to a director or not, are reviewed and, if found satisfactory, their renewal or continuance is sanctioned. It may be argued that, when the renewal or continuance of an advance to a director is sanctioned, it in effect amounts to the board giving time to the director concerned to pay the debt and that the sanction of the general meeting is required. Any attempt to obtain such sanction would be extremely unfair to the director concerned, as the shareholders would get the impression, which may be quite erroneous in fact, that he is unable to pay his debts as and when they become

due, and the impression may occasion him considerable loss in his business.

It is, therefore, suggested that the Section be amended with a view to exempting renewal or continuance of an advance to a bank director made in the normal and ordinary course of business from the operation of the same.

*Section 297—Board's sanction for certain contracts in which particular directors are interested:*

According to this Section, the consent of the board of directors of the company is required for any contract, for sale or purchase or supply of any goods, materials, services, etc., with a director of the company or his relative or a firm in which such director or his relative is a partner or with any other partner in such a firm, etc. It will be difficult for a director to reasonably furnish the information in regard to the names of the firms in which his relatives are partners or to give the names of other partners in such firms, in view of the very wide definition of the term 'relative'. Further, it is not obligatory on the part of the relative to disclose to the director his business or the names of his partners. Under these circumstances, it will be wellnigh impossible for a company to obtain the requisite information, so as to see that no contracts are entered into with such directors' relatives or the firms in which such director or his relative is a partner, etc. It would, therefore, be desirable to exclude 'relatives' from the purview of this Section or to define the term in such a manner as to include only a small range of persons therein.

In respect of 100 per cent subsidiaries or subsidiary companies in which the parent companies have a substantial interest, it should not be necessary to obtain the sanction of the parent companies for all contracts to be entered into by the subsidiaries with their directors. It is presumed that contracts of insurance entered into by companies will not be hit by the provisions of this Section. If the position is not clear, it is suggested that such contracts should be placed outside the purview of the Section.

Sub-section (2) of Section 297 exempts contracts for sale, purchase or supply of goods, materials and services in which either the company or the director, firm, partner or private company regularly trades or does business to the extent mentioned. It will be observed that the exemption does not extend to a

'relative'. It appears that the omission of 'relative' is due to oversight. If the suggestion made above to exclude relatives from the purview of this Section is not acceptable, at least they should be excluded in respect of contracts coming under this sub-section as otherwise every contract with a relative or a firm in which he is a partner, for howsoever small an amount, will require the Board's sanction, a task which will be very difficult, if not impossible, due to the very wide definition of the word 'relative' under the Act. The Section may also be so amended as to exclude entirely from the purview thereof at least services rendered by a bank to a director, relative, firm, partner, or private company aforesaid in the normal and ordinary course of its business, in the same way as it renders to other members of the public and for which service the bank gets remunerated in the usual way. Examples of these services are: maintaining of current accounts, issuing a draft on a branch or correspondent, issuing travellers' cheques, or a letter of credit, etc. Such services, from their very nature, do not require the sanction of the board.

#### *Section 299—Disclosure of interests by Director:*

Sub-section (1) of this Section requires every director of a company, who is in any way directly or indirectly concerned or interested in a contract or arrangement or proposed contract or arrangement entered into or to be entered into, by or on behalf of the company, to disclose the nature of his concern or interest at the meeting of the board of directors. Failure to comply with the provisions of this Section is punishable with fine, which may extend to Rs. 5,000. As pointed out earlier, it will be difficult for a director to know the business conducted by all his relatives and it is also not obligatory on the part of the relatives to disclose such information.

Sub-section (3) of Section 299 states that for the purpose of sub-sections (1) and (2) thereof, a general notice to the board by a director to the effect that he is a director or member of a specified body corporate or a member of a specified firm and that he is to be regarded as interested in any contract or arrangement which may after the date of such notice be entered into with that body corporate or firm, shall be deemed to be sufficient disclosure of his concern or interest. A question has arisen whether the Section requires a director of a Bank to disclose to the board every contract or arrangement which he himself personally enters into with the bank in the usual and ordi-

nary course of its business, for example, the opening of a current or other deposit account or purchase of travellers' cheques. The Section as framed leaves the matter at large. In view of the fact that the penalty for non-disclosure is vacation of his seat as a director, it is suggested that the Section be suitably amended so as to provide that no disclosure to the board should be required for such personal contracts.

It is also suggested that no obligation should be cast on the directors to disclose information in cases where payments have been received by them for services rendered. It is further suggested that contracts upto the value of Rs. 1,000 should be exempt from the provisions of this Section, i.e. the Board's prior approval should not be necessary in respect of such contracts.

*Section 301—Register of Contracts, etc., in which directors are interested:*

Section 301 requires every company to keep a register containing particulars of all contracts or arrangements to which Sections 297 and 299 apply. Section 299 requires every Director to disclose his interest at meetings of the Board, when he is *in any way, whether directly or indirectly, concerned or interested in a contract or arrangement*. It would appear from Section 299(3)(a) that a Director is to be regarded as concerned or interested in any contract or arrangement with a specified body corporate *of which he is a member* (shareholder). Accordingly, all companies, whether private or public, would be required to enter in their Register maintained under Section 301, detailed particulars of contracts with any body corporate of which any of the Directors is a member (shareholder), even though the shareholding of the Director may be very nominal.

A strict compliance of this provision will involve companies in enormous clerical work in scrutinising every contract for purchase or sale of goods or for supply of services. Contracts in which any of the Directors may be found to be indirectly interested by reason of his being a member of the company, will have to be brought up at Board meetings and a detailed register of such contracts will have to be maintained. It may also happen that all the directors may be interested in a company. It will be clear that almost every contract made by these companies will come under the purview of Sections 299 and 301.

It is, therefore, suggested that either Section 299 should be taken out of the purview of Section 301 or an amendment be

made in Section 299 or Section 301 to the effect that contracts in which a director may be found to be indirectly interested by reason of his being a member of the company with which the contract is being entered into will not be required to be approved by the Board of Directors unless the shareholding of the director or directors concerned in that company exceeds 5% of the total shareholding of the company.

*Section 303: Register of Directors, etc.:*

This Section requires every company to keep at its Registered Office a Register of its directors, managing director, etc., and file with the Registrar of Companies within the period therein specified a return in the prescribed form containing the particulars contained in the Register of Directors, etc., and of any change among its directors or in any of the particulars in the Register. The register is to contain particulars such as residential address, nationality, business occupation, etc. of the persons concerned, as well as the particulars of other directorships held by them. Whenever, therefore, there is any change in any of the said particulars, a Return is required to be filed with the Registrar by every company in which the person concerned is a director or becomes a director. Apart from the procedural work that has to be carried out for the purpose of filing from time to time the Returns regarding changes, the recent increase in the filing fee from Rs. 5 to Rs. 10 in the case of every document filed with the Registrar would prove to be an unnecessary burden on the resources of the company.

The object of requiring changes from time to time to be notified to the Registrar is to enable the shareholders as also members of the public to get up-to-date complete information of the position of a particular company. In this connection, it may be pointed out that Section 304 of the Act requires a company to keep the Register of Directors, etc. open to the inspection of any member of the company without charge and to any other person on payment of Re. 1 for each inspection during business hours; refusal to allow inspection has been made penal. In view of this provision, whereunder any member of the public could have access to and inspection of the register, it is felt that the requirement and burden on the company of filing the changes from time to time as they occur with the Registrar could very well be dispensed with. Moreover, the Annual Return required to be filed by companies under Section 159 of the Act would contain particulars of directors, etc. If,

however, it is felt that changes occurring in the particulars of directors, etc. should be filed with the Registrar from time to time as they occur, it is suggested that, instead of obliging every company in which a person is or becomes a director to file fresh returns when a change in any of the particulars in question happens, a Register of Directors showing the company or companies in which a particular person is a Director may be kept and maintained at the office of the Registrar of Companies and the Director should be required to file with the Registrar changes in any of the particulars pertaining to himself, thereby doing away with the requirement of all the companies concerned filing separate returns in respect of such changes. An amendment to this effect may be made in the Act.

*Section 314: Director, etc. not to hold office or place of profit:*

According to this Section, a director or his relative cannot hold an office of profit in the company, except with the previous consent of the company accorded by a resolution, and the penalty for a breach of the provisions of the Section is the automatic cessation of directorship of the person concerned. At the outset it is suggested that the provisions of this section should not apply to private companies which are not subsidiaries of public companies.

Generally employees are employed by officers of the company in the routine way and in many cases the directors have no hand in it. Moreover, the companies and/or their subsidiaries might be having branches throughout India and the employees are employed by the officers stationed there and the directors might not be aware of such appointments at branches. In view of this, there is every likelihood that a relative of a director might be in the employment of a company without the knowledge of the director and even then he will be liable to the consequences provided in the Section, viz. that he would cease to be a director. This, it would be appreciated, is inequitable. It is, therefore, suggested that exception should be made in such cases where the contravention occurs without the knowledge of the director concerned. In order to meet this situation, it may be provided that it would be sufficient if such appointments are confirmed by a Special Resolution of the Company at its next meeting held after the date when the contravention comes to the knowledge of the director.

A director of a parent company holding office as a director of its subsidiary should not be considered as holding an office of profit in the subsidiary company.

It appears that Government are of the view that even in respect of an auditor of the company who is appointed by the general body, a director would be hit by the provisions of this Section if he happens to be a relative of the auditor. It is suggested that auditors should be excluded from the provisions of the Section since they are appointed by the company in General Meeting and not by the directors or any other officer of the company.

Another difficulty under the provisions of this section arises, when a person, who is already in the employment of a company, becomes by marriage or otherwise related to a director at a future date. While it would be possible to obtain the previous consent of the company before appointing any person who is a relative of a director to a place of profit in the company it would be appreciated that, in the case of a person who is already in the employment of the company and who becomes a relative of a director at a later stage by marriage or otherwise, the sanction of the General Body could be obtained only after the relationship has accrued. In such cases, it will not be proper that the director concerned should cease to be a director at least until such time as the matter is placed before the general body and their decision is arrived at. An amendment to this effect may be made in Section 314, A definite provision for having the matter brought before the next general meeting of the company should be made.

Again, according to the Section, the consent of the General Body will be necessary even for the appointment of an ordinary clerk in the company, if he happens to be a relation of the director. It is suggested that this section should be made applicable only to those persons, who hold place of profit carrying an emolument of Rs. 500 and more per month.

#### *Section 360:*

This section requires the approval of the company by a special resolution of every contract before it is entered into by the company with the Managing Agent or any associate of the Managing Agent for the sale, purchase or supply of any property or for the supply or rendering of any service. This also includes any contract of employment under the company.

While under Section 360 for such employment a special resolution has to be passed by the company, under Schedule VII, the previous approval of the Board of Directors is required before such person can be appointed by the Managing Agents. The same schedule also provides that any relative of a member of the Managing Agency company where the company is a private company, cannot be appointed by the Managing Agent to an office under the managed company without the previous approval of the Board. The language of the schedule is not quite clear as to whether such approval is required in the case of employment of a member of the Managing Agency company under the managed company or whether it also extends to a relative of a member also. The provisions of Section 360 sometimes present serious difficulties in the working of the companies. It makes it difficult for some companies to meet temporary shortage of stores, chemicals or materials which formerly they could always draw upon from other associated companies. It also makes it difficult to engage highly qualified technicians for the common use of several companies who in the absence of any such common arrangement would not be able to avail of their services because of the high cost involved. For each such arrangement at present special resolution by each of the companies concerned is required which is both highly inconvenient and costly business. In order, however, to ensure some vigilance, it may be provided that all such contracts of sale, purchase or rendering of services by one company to another will require a Board resolution.

Sub-section (4) of Section 360 states that nothing contained in clause (a) of sub-section (1) shall affect any contract or contracts for the sale, purchase or supply of any property or services in which either the company or the managing agent or associate, as the case may be, regularly trades or does business, provided that the value of such property and the cost of such services does not exceed Rs. 5,000 in the aggregate in any calendar year comprised in the period of the contract or contracts. The word 'rendering' appearing in clause (a) of sub-section (1) of this section does not appear in sub-section (4). It is, therefore, not clear whether an associate of the managing agent could be employed without the special resolution passed at the General Meeting of the company even though his salary in any calendar year is less than Rs. 5,000. If the appointment cannot be made, it is suggested that suitable amendments may be made to provide for such an appointment without the sanction of the company by a Special Resolution.

*Section 370: Loans to companies under the same Management:*

This Section prevents a company *inter alia* from making a loan to another company under the same management as the lending company unless previously authorised by a special resolution of the lending company. The explanation to the Section states as to when two companies are to be deemed to be under the same management. Sub-clause (ii) of the Explanation states that two companies are deemed to be under the same management if a majority of the directors of one company constitute, or at any time, within the six months immediately preceding, constituted, a majority of the directors of the other body.

This section occurs in Chapter III which deals with Managing Agents and is included under the sub-heading "Restrictions on Powers". The section does not, however, specifically exempt a loan made, guarantee given, or security provided by a bank to a company 'under the same management' as itself. Having regard to the fact that the Section occurs in the Chapter concerning Managing Agents, it was probably not intended by the framers of the Act that the Section should be made applicable to banks, which are not and cannot be managed by a managing agent. It is, therefore, suggested that this Section be amended suitably so as to put it beyond doubt that it does not apply to Banking Companies.

It may be incidentally pointed out that Section 372 which restricts purchase by one company of shares or debentures of another company belonging to the same group as the investing company, specifically provides that it shall not apply to a banking company [*vide* sub-section (12)]. The absence of a similar specific provision in Section 370 raises doubts as to its non-applicability to banking companies and it is, therefore, desirable to amend Section 370 in the manner aforementioned.

*Section 418: Provident Funds of Employees:*

This Section provides that the amount of Provident Fund contributions are to be deposited in a Post Office Savings Bank account or invested in Trust Securities. It will be appreciated that there cannot be a straightaway investment in trust securities of all the amounts and some amount has always to be in bank account. This compulsory investment in Post Office Savings Bank accounts creates great trouble because of the restrictive nature of the Post Office Savings Bank accounts which

do not permit operation by way of cheques and insist on personal attendance of the Trustees, being persons in whose names the account stands and the account cannot be opened in the names of more than three persons. It is suggested that instead of this, Scheduled Banks may be specified and, if, necessary, limits laid down as to the amounts which may be kept in Scheduled Banks pending investment in Government Securities, etc., or if it is the view that there should be a Government Institution to protect such contributions, the amounts may be allowed to be deposited in the State Bank of India in addition to the Post Office Savings Bank.

*Schedule VI—Form of Balance Sheet:*

Note (o) of the notes given at the bottom of the balance sheet states that a debt which remains unrealised after a period of three months from the date on which the debit in respect of the same arose should be treated as loan or advance and the amount in this behalf shall for the purpose of balance sheet be treated as a loan or advance and separately shown as such under the heading 'Loans and Advances'. In the trade sundry debts are generally outstanding for more than three months. The period of three months should, therefore, be extended to one year. Again, the amounts outstanding for more than one year should be allowed to be shown as a break-up of the several items of sundry debts and not as loans and advances.

*Schedule X:*

This schedule prescribes the fees payable to the Registrar of Companies in respect of the several matters mentioned therein. The fees payable in respect of companies having a share capital under Part I of the Schedule were revised with effect from 1st January 1957. By the revision the fee for filing, registering or recording any document or fact was doubled. However, in respect of companies having a nominal share capital of less than Rs. 1 lakh the schedule of fees was not altered. It is felt that in view of the large number of documents which a company has to file with the Registrar, from time to time, the concession should have been made available to companies having a share capital of less than Rs. 5 lakhs. It is, therefore, suggested that in respect of companies having a share capital of less than Rs. 5 lakhs the fees prevailing before the revision should be maintained.

*Private Companies:*

Many of the provisions of the Act do not apply to private companies. It is suggested that these provisions may be grouped together and included in a separate chapter for easy reference.

Private companies may be exempted from the following provisions of the Act also:

- (1) Section 285 provides that in the case of every company a meeting of its Board of Directors should be held at least once in every three calendar months. In respect of small companies, it will not be necessary to convene such meetings once in every three months, as there may not practically be any business to be conducted at such short intervals. The calling of such meetings, in addition to entailing some amount of clerical work, would also cause unnecessary expenditure for payment of directors' fees, etc. It is, therefore, suggested that this statutory obligation of calling meetings of the Members once in every three months should not be enforced in case of private companies whose paid-up capital does not exceed Rs. 1 lakh..
- (2) Since private companies restrict the right of transfer of shares and since generally the Articles of Association of private companies contain a provision that whenever shares are offered, the same should be offered *pro-rata* to the existing shareholders, private companies may be exempted from maintaining a Register of Directors' shareholding under Section 307 of the Act.
- (3) Sanction of Board of Directors is required in respect of contracts under Section 297 when any Director of the company is an interested director. Section 299 requires every company to keep a register of contracts wherein are to be entered particulars of all contracts and arrangements to which Section 297 or 299 applies. In respect of private companies, it is suggested that it would be sufficient if a general sanction of the Board is given for all contracts with a particular company in which a Director is interested and his interest has been disclosed and it would not be necessary for obtaining the sanction of the Board in respect of every contract entered into with that other company.

*Shareholders:*

While the Act provides for punishment against any infringement by Directors, Managing Agents, Secretaries and Treasurers, etc. there is no provision anywhere in the Act for the purpose of controlling the activities of shareholders of a company which may be prejudicial to the interest of the company. It is, therefore, suggested that where 75% members of a company in a special general meeting pass a resolution to the effect that a particular member should be removed from the membership of the company, the said member then ceases to be a member of the company and the company would pay the value of the shares held by the member either at par or at the market value of the shares.

*Obligation to give information to Company:*

It is suggested that wherever the provisions of the Act require any person to give any information to the company it should be provided that such information should be given in writing. To quote an instance when a director resigns it should be obligatory on his part to give the information to the company in writing and in the absence of such information being received by the company in writing the company should not be made liable for not carrying out its obligations under the Act which it could do only on obtaining such information from the parties concerned.

The Committee of the Chamber hope that the *ad hoc* Committee will be pleased to give their earnest consideration to the suggestions made above and recommend to Government the necessary amendments to be made in the Companies Act, 1956, for giving effect to the same.

**APPENDIX 27****Financial Year of Companies**

*Letter No. 957 dated 25th April 1957 from Chamber to the Department of Company Law Administration.*

The attention of the Committee of the Chamber has been invited to the communication No. 4/26/56-PR dated the 17th January 1957 addressed by the Department of Company Law Administration to the Federation of Indian Chambers of Commerce and Industry in regard to the proposal for a uniform financial year for all the companies, and I am desired to convey

hereby the views of the Committee of my Chamber on the proposal.

The introduction of a uniform financial year for all companies will indeed facilitate expeditious collection, compilation and comparison of statistics and will render inter-company accounting as well as income-tax assessments quicker and less cumbersome. There are, however, certain practical difficulties which, in the opinion of the Committee of the Chamber, would outweigh the advantages that may accrue from having a uniform financial year.

In the case of companies engaged in industries which depend for their raw materials on seasonal products like sugar, oilseeds, jute, etc., the financial year is adjusted according to the season when such raw materials become available to them, and for such companies it will not be quite possible to adhere to any financial year in common with that instituted for other companies. Again, for construction industries there will be a more or less complete slackness in activity during the monsoon months and, therefore, a financial year ending between March and December may not be found to be suitable for their purposes. Many commercial companies follow the Samvat year for their accounting purposes, and they may not favour any change from that year to a uniform financial year, that may be brought about, on traditional or sentimental grounds.

No doubt, Banking companies and Insurance organisations have already a uniform financial year. My Committee feel that the analogy cannot be applied to all kinds of industrial and commercial companies. Banking and Insurance companies form only a very small proportion of the total number of companies registered in the country. In view of the considerable number of companies operating in the country, the adoption of a common financial year for all of them would mean that the yearly auditing of their accounts should be undertaken and completed more or less at the same time in the year; for this purpose there will be a rush for the services of the Audit firms during the period and it will be difficult, if not impossible, for the Auditors to cope up with the entire work emanating from all the companies at the same time of the year. This will also lead to practical difficulties in convening the annual general meetings of the companies in compliance with the provisions of the Act. There is also the further possibility that during the months of increased work the Audit firms will be obliged to work for long hours during the day or enlist the services of

additional staff, and in the remaining period of the year there will be considerably less work for them.

My Committee request that Government will be pleased to give their earnest consideration to the views and points urged above while considering any proposal for the institution of uniform financial year for companies.

## APPENDIX 28

### **Filing of particulars of Directors, etc. under Section 303 of the Companies Act**

*Letter No. 681 dated 19th March 1957 from Chamber to the Department of Company Law Administration.*

Section 303 of the Companies Act, 1956, requires every company to keep at its Registered Office a Register of its directors, managing director, etc. and to file with the Registrar of Companies within the period therein specified a return in the prescribed form containing the particulars contained in the Register of Directors, etc. and of any change among its directors or in any of the particulars in the Register. The Register is to contain particulars such as residential address, nationality, business occupation, etc. of the persons concerned, as well as the particulars of other directorships held by them. Whenever, therefore, there is any change in any of the said particulars, a Return is required to be filed with the Registrar by every company in which the person concerned is a director or becomes a director. Apart from the procedural work that has to be carried out for the purpose of filing from time to time the Returns re: changes, the recent increase in the filing fee from Rs. 5 to Rs. 10 in the case of every document filed with the Registrar would prove to be an unnecessary burden on the resources of the company.

The object of requiring changes from time to time to be notified to the Registrar is to enable the shareholders as also members of the public to get up-to-date complete information of the position of a particular company. In this connection, my Committee would invite Government's attention to Section 304 of the Act, which requires a company to keep the Register of Directors, etc. open to the inspection of any member of the company without charge and to any other person on payment of Re. 1 for each inspection during business hours; refusal to allow inspection has been made penal. In view of this provision, whereunder any member of the public could have access to and

inspection of the Register, my Committee feel that the requirement and burden on the company of filing the changes from time to time as they occur with the Registrar could very well be dispensed with. Moreover, the Annual Return required to be filed by companies under Section 159 of the Act hold that changes occurring in the particulars of directors, etc. should be filed with the Registrar from time to time as they occur, my Committee suggest that, instead of obliging every company in which a person is or becomes a director to file fresh returns when a change in any of the particulars in question happens, a Register of Directors showing the company or companies in which a particular person is a Director may be kept and maintained at the office of the Registrar of Companies and the Director should be required to file with the Registrar changes in any of the particulars pertaining to himself, thereby dispensing away with the requirement of all the companies concerned filing separate returns in respect of such changes.

The Committee of the Chamber request that Government will be good enough to give their earnest consideration to the above suggestion.

*Letter No. 8/303/56-PR dated 22nd April 1957 from the Department of Company Law Administration to Chamber.*

With reference to your letter No. 681 dated the 19th March 1957, I am directed to say that the discontinuance of the present practice of maintaining the particulars of the nature envisaged in section 303 and other sections of the Act in the office of the Registrar of Companies will place the creditors and others who have dealings with a company at a disadvantage in that there would be no source wherefrom they could readily obtain the relevant information for their own use. Moreover, if the suggestions of your Chamber were accepted, the practical difficulties in the office of the Registrar of Companies in maintaining the Registers of Directors, etc. accurately and up-to-date and the risk of mistakes occurring in the recording of the particulars in relation to all the companies affected by a particular change would also be very considerable. The Central Government, therefore, regrets that it is unable to accept your proposal regarding amendment of sub-section (2) of section 303 of the Companies Act, 1956, which is based on sub-section (2) of section 87 of the Indian Companies Act, 1913.

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## APPENDIX 29

### Revised Scale of Fees payable by the Companies

*Letter No. 887 dated 13th April 1957 from Chamber to the Department of Company Law Administration.*

Government of India by a notification issued under Section 641 of the Companies Act laid down a revised scale of fees payable in respect of a company having a share capital under items 1 to 6 of Part I of Schedule X to the Act and the revised rates of fees came into operation with effect from the 1st January 1957. Government have taken this step of increasing the fees with a view to meet the increased expenditure arising out of the Company Law Administration being taken over by the Centre. Government have, however, in revising the fees kept in view the need for keeping the fees payable by existing companies with relatively small capital at the same old rates and have, therefore, not enhanced the fees payable by a company having a nominal share capital of less than Rs. 1 lakh.

While my Committee welcome this step, they feel that this has not gone far in meeting the situation in respect of existing companies with relatively small capital and are of the opinion that the concession should be available to companies having a nominal share capital of less than Rs. 5 lakhs. In this connection, my Committee would like to point out that Government have accepted the minimum of Rs. 5 lakhs for the purpose of Capital Issues Control in that no permission is necessary for issuing in any particular year capital not exceeding Rs. 5 lakhs.

My Committee, therefore, request that Government would take into account the need for extending the concession regarding payment of fees to companies having a nominal share capital of less than Rs. 5 lakhs and amend the Schedule accordingly.

*Letter No. 12/21/56-PR dated 24th April 1957 from the Department of Company Law Administration to Chamber.*

With reference to your letter No. 887 dated the 13th April 1957, I am directed to say that the question of enhancement of fees payable by the companies under Schedule X to the Companies Act, 1956, was considered recently carefully by the Central Government. The Government regrets its inability to accept your suggestion regarding raising of the limits of concession so that a company with a nominal capital, not exceeding

Rs. 5 lakhs, may be liable to the same rates of fees as they were paying before the 1st January 1957.

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## APPENDIX 30

### **Saving Clause to Section 1 of the Negotiable Instruments Act**

*Letter No. 200 dated 21st January 1957 from Chamber to the Secretary, Law Commission, New Delhi.*

I refer to my letter No. 2647 dated the 26th October last conveying the views of the Committee of the Indian Merchants Chamber on the suggestion contained in your letter No. F.39/55-LC(ii) dated the 11th October 1956 to the effect that after a specified period only such instruments as conform to the requirements of the Negotiable Instruments Act, irrespective of the language in which they are written, should get protection under the law and that the Saving Clause to Section 1 of the Negotiable Instruments Act should be deleted with effect from such date..

My Committee while agreeing to the above suggestion of the Law Commission stated that at least a period of 5 years should be stipulated for the purpose of the abolition of the Saving Clause. In this connection, my Committee would like to refer to the memorandum submitted by them on the 19th September 1956 placing before you their views and suggestions on the questionnaire regarding the revision of the Negotiable Instruments Act. In replying the question No. 4 of the Questionnaire, the Committee had suggested that the usages governing various kinds of Hundis should be statutorily recognised and the Saving Clause amended accordingly. Since the usages and customs governing Hundis are many and different in different parts of the country, my Committee desire to suggest that a recommendation may be made to Government for the appointment of a special Sub-Committee to go through these customs and usages and codify them by incorporating them in a separate chapter on Hundis in the Negotiable Instruments Act. Until such time as such codification takes place, my Committee are of the view that the Saving Clause to Section 1 of the Negotiable Instruments Act should be retained.

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## APPENDIX 31

### **Amendment to the Employees' Provident Fund Act, 1952 —Proposals therefor**

*Letter No. 1461 dated 27th June 1957 from Chamber to the All-India Organisation of Industrial Employers.*

I refer to your circular letter No. 400 dated the 7th June 1957, forwarding a copy of the circular received by your Organisation calling for comments on the proposed amendments to the Employees' Provident Fund Act, 1952. The Committee of the Chamber have given their consideration to the proposals and I am desired to send to you hereby their views and suggestions in regard to the same:

*(I) Clarification of Section 1(3) in regard to the application of the Act:*

It is proposed to amend Section 1(3), so as to clarify that once an establishment on employing 50 persons or more has come under the Act, it shall continue to be so covered irrespective of the fact that its employment strength subsequently falls below 50, unless the Central Government otherwise directs. The Central Government would, however, issue such direction only if the employment strength of any establishment has been below 50 for a continuous period of not less than 2 years.

My Committee are of the view that once the employment strength falls below 50 and it remains so for a period of 3 months, the establishment should be empowered to apply to Government for exemption and, if Government is satisfied that the reduction in strength was *bona fide* and that there would be no chances of the employment being increased in the near future to the required strength, directions should be issued by Government for exempting the undertaking. The period of 2 years suggested by Government for reconsidering the matter is too long and, as above pointed out, reconsideration should be made after a period of 3 months if circumstances warrant the same.

A proposal for amending Section 1(3), by adding an explanation thereto, has been received by Government for the purpose of clarifying as to whether casual workers employed in a factory should or should not be counted for computing the employment strength of 50 persons. It appears that Government have been advised that the word 'employed' occurring in

this Section refers to express or implied contract of employment between the employee and the employer, and if such contract subsists, irrespective of the fact whether the person employed is not actually working nor even physically present in the establishment, he shall be deemed to be employed in the establishment and shall be counted to make up the number of 50 or more persons.

My Committee feel that casual workers should not be taken into account while calculating the employment strength of an undertaking for the purpose of the Act. Again, any employee, who is not personally present or actually working in the establishment should also not be reckoned, unless such employee is on the permanent roll of the factory concerned.

*(2) Enlarging the powers of Inspectors—Sec. 13(2):*

It is proposed to amend Section 13(2), so as to empower an inspector to require an employer in relation to an establishment to which the Act applies or his agent or any other duly accredited representative to be present at the establishment premises with such relevant records as may be specified when an inspection takes place.

My Committee suggest that sufficient notice should be given to the employer concerned as to the Inspector's visit and the notice should also specifically mention the records to be kept ready for his inspection.

*Section 8:*

Section 8 is proposed to be amended, so as to empower Government to make an assessment either by private inquiry or in such other manner as Government may direct of the amounts payable by establishments in circumstances when employers default to submit returns in Form 12 or to produce their records.

My Committee suggest that action under the proposed provision should not be taken, unless the employer concerned has been served with a notice calling upon him to show cause as to why such an assessment should not be made and sufficient time has been allowed to him for presenting an explanation of his case in that behalf.

I am to request that your Organisation will give their earnest consideration to the above views and suggestions of the

Committee of the Chamber, while formulating your recommendations for being forwarded to Government in the matter.

## APPENDIX 32

### **Employees' Provident Funds Act, 1952—Increase in Rate of Contribution from 6½ to 8-1/3 per cent**

*Letter No. 1460 dated 27th June 1957 from Chamber to the All-India Organisation of Industrial Employers.*

I refer to your circular letter No. I.E.388 dated the 29th May 1957, on the aforementioned subject. The Committee of the Chamber have given their consideration to the proposal to increase the rate of contribution under the Employees' Provident Funds Act from 6½ to 8-1/3 per cent, and I am desired to forward hereby their views and observations concerning the same.

My Committee are strongly of the opinion that enhancement of the percentage rate, as proposed, especially at this stage when there has been an abnormal increase in the rates of various forms of taxation, would impose a heavy burden on industries which they may not be in a position to bear. They are unable to agree with the view expressed by Government that the increase in the cost of production would only be of a marginal character.

Another argument advanced by Government to justify the proposed enhancement is that the higher rate of 8-1/3 per cent has been granted by Industrial Tribunals in the country and that the same rate prevails in the Railway establishments and Defence installations. In this connection, it may be pointed out that, even though the awards of the industrial tribunals have generally accepted the 8-1/3% contribution, they have expressly refused to take into account the dearness allowance in calculating the total wages of an employee for the purpose of Provident Fund contribution. Again, it does not appear that the provident schemes of the Railways and Defence installations take into account the amount of dearness allowance paid by them for the purpose of arriving at the provident fund contribution. Even if it is so taken into account, it should be mentioned, the amount of dearness allowance paid by those organisations is comparatively small. In the case of industrial labour, the dearness allowance is almost equal to, if not more than, the basic wages, and in view of this even a small increase in the

rate of provident fund contribution would inflate their wage bill to an appreciable extent and would prove to be a burden on them.

In view of the foregoing considerations, the Committee of the Chamber are not in favour of the proposal to increase the rate of provident fund contribution from 6½ to 8-1/3 per cent.

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### APPENDIX 33

#### **Employees' State Insurance Act, 1948—Section 66**

*Letter No. 2811 dated 30th December 1957 from Chamber to the Ministry of Labour, Government of India.*

Section 66 of the Employees' State Insurance Act provides that where any employment injury is sustained by an insured person as an employee under the Act by reason of the negligence of the employer to observe any of the safety rules laid down by or under any enactment applicable to a factory or establishment, the employer notwithstanding the fact that he had paid the weekly contributions due under the Act would be required to reimburse to the Corporation the actuarial present value of the periodical payments which the Corporation is liable to make under the Act. As a result of this provision, where any injury or accident is caused to an employee as a result *inter alia* of the employer not complying with the various regulations under the Factories Act regarding protective guards to the machinery installed in the factory, the employer is required to reimburse the Corporation the amount which the latter would have to pay to the insured workman even though the employer has been regularly making his contributions under the Act in respect of the employee concerned.

In this connection, the Committee of the Chamber desire to point out that before the enactment of the Employees' State Insurance Act, it was the practice of the managements of the various factories to protect themselves against possible claims resulting from accidents caused to workers in the course of their employment, by taking out necessary insurance policies. This practice was, however, given up with the enactment of the Employees' State Insurance Act. The policies taken up by the Management before the enactment of the Employees' State

Insurance Act protected them from claims made by injured workmen irrespective of whether the accident resulting in the injury occurred due to the employers not complying with the provisions of the enactment applicable to the factory or establishment.

Since the employers are required to make their contributions under the Employees' State Insurance Act, my Committee feel that it is the Corporation which should take care of and be responsible for all risks and injuries to workmen irrespective of whether such injuries resulted due to non-compliance of the various protective legislations, in the same way as the insurance companies accepted the risk. A pertinent factor worth mentioning is that when the machinery in a factory is being repaired, the same has to be got tested without protective guards being put on them and this always involves some amount of risk.

In the above circumstances, my Committee request that section 66 of the Employees' State Insurance Act may be repealed.

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## IV. GENERAL TRADE AND INDUSTRY

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### APPENDIX 34

#### Meeting with Shri S. N. Bilgrami, Chief Controller of Imports & Exports

*Speech of Shri Murarji J. Vaidya, President, Indian Merchants' Chamber at the meeting with Shri S. N. Bilgrami, Chief Controller of Imports & Exports, on Tuesday, the 5th February 1957.*

#### SHRI BILGRAMI & FRIENDS:

I have great pleasure in extending to you a cordial welcome. You have recently started the practice of visiting the different Port Centres after the announcement of the half-yearly Import Policy. We welcome this practice, inasmuch as it affords the commercial community in the different parts of the country an opportunity for personal discussion with you on matters connected with Import & Export Controls. Such exchange of views and ideas is mutually helpful in understanding and appreciating each other's point of view in a better manner.

During the last few years, in the sphere of imports, Government were following a policy of what was termed as "gradual and discriminating liberalisation". The adoption of such a policy was rendered possible by the steady improvement that was taking place in the balance of payments position of the country. The year 1956, however, witnessed a deterioration in the balance of payments position. During that year, imports were of the order of Rs. 800 crores, while exports were valued at Rs. 596 crores; there was thus an adverse balance of trade to the tune of Rs. 204 crores, as compared to Rs. 48 crores in 1955 and Rs. 46 crores in 1954. This sudden deterioration in the country's balance of payments position has necessitated reversal of the somewhat liberal trend that had characterised our Import Policy for the past few licensing periods. As a matter of fact, some measures to tighten up Import Control in certain respects had already been taken long before the announcement of the Import Policy for the fresh licensing period commencing from the 1st January 1957. The Import Policy for this period is restrictive in many respects. I do not intend to go into the details of the Policy on this occasion. I would, however, refer to only a few salient features.

Import quotas in respect of more than 500 items have been reduced. Among the items affected by the reduction in quotas are fruits, certain spices, betelnuts, tallow, liquors, cigars and cigarettes, toilet requisites, lead pencils, paper items, woollen, cotton and art-silk fabrics, cutlery, sheet and plate glass, cycles, patent and proprietary medicines, coal-tar dyes and certain items of machinery. Major cuts in import quotas have been made in respect of those items in which the indigenous production has increased appreciably in the recent past. Among other important features of the current licensing policy, mention may be made of the withdrawal of the scheme of newcomers' licences and the scheme of liberal licensing, both of which were in force during the past few years.

In the context of the serious decline in the country's external resources, and particularly the sterling reserves, a rigid import policy for the country has become inevitable. There are, however, one or two features of the policy which call for attention and to which we would like to refer, on this occasion. The import policy usually makes provision for the grant of what are called Actual Users' Licences, i.e. licences to manufacturers and processors for importation, on their own account, of raw materials and accessories required for their manufacturing or processing activities. A list of the items which are so licensable to actual users is appended to the Policy. Over and above the items shown in the Policy as licensable to actual users, the import policy hitherto contained a provision to the effect that Applications from Actual Users for items not shown as licensable to them but which were required by them, for use in factories would also be considered on merits. In the policy for the current period, however, it has been categorically stated that applications from actual users for items not appearing in the Actual Users' list will not be entertained. In our opinion, it is advisable that the import policy should contain a provision for grant of actual users' licences on considerations of merits even in respect of items not appearing in the list of items shown as licensable to actual users, for that ensures availability of the raw materials and accessories from foreign sources, if such raw materials and accessories are not procurable from indigenous sources and if they do not happen to be included in the list of items shown in the policy as licensable to actual users. We are drawing your attention to this aspect only to emphasize that the indigenous manufacturers should not be handicapped for want of requisite raw materials and accessories. The commercial community would also like to be assured that the rigid pro-

cedure that has been recently introduced in connection with disposal of applications for import licences in respect of capital goods would not come in the way of the procurement of the necessary machinery and other capital goods from foreign sources and manufacturers would not be handicapped on this account.

We would take this opportunity to bring to your notice certain difficulties that have been caused to the importers on account of the recent developments in West Asia. Due to these developments, passage of ships through the Suez Canal has been seriously hampered and they are required to be diverted *via* the Cape of Good Hope. This being a much longer route, the turn-round of ships has naturally become slow, thereby giving rise to the problem of getting shipping space. It has been pointed out that suppliers in the U.K. and the other continental countries would not, in several cases, be able to ship the goods according to schedule, with the result that the import licences held by importers would be rendered useless, unless their period of validity is duly extended by Government. We express the hope that Government will consider this aspect of the matter and extend the validity of licences by a suitable period.

We would also refer to the other difficulty that has been caused to the importers in the wake of the above developments in the Suez Canal. The diversion of the vessels round the Cape has caused an increase in insurance and freight charges. With an increase in these charges, importers are unable to keep the value of their imports within the limits of the face value of their licences. When the matter was brought to Government's notice, they were good enough to notify that excesses over the C.I.F. value of licences caused due to increase in insurance and freight charges as a result of diversion of ships via the Cape of Good Hope would be condoned by the Customs Authorities in respect of shipments made upto the 15th December 1956. It appears, however, that there are still a large number of consignments awaited under orders placed with foreign suppliers on the basis of the earlier insurance and freight charges and it would not be possible for the importers in such cases to keep the value of the goods within the C.I.F. value of their licences. We would, therefore, urge that this difficulty be taken into consideration and the concession of allowing excesses over the C.I.F. value caused by increase in insurance and freight charges under the above circumstances should be allowed in respect of all consignments imported under orders which were placed with

the foreign suppliers on the basis of the charges that were in force before the developments in question.

As regards the administrative and procedural matters connected with the Import Trade Control, we are glad to note the continued improvement noticed in connection therewith. There is, however, one aspect which has been recently brought to our notice. It is complained that, while debiting import licences, the Customs Authorities have once again, started disallowing the discount or commission allowed to the importers according to normal trade practice. There does not seem to be any justification for such action. We would urge you to look into the matter and to see that the practice under which the usual trade discount or commission is allowed, while debiting import licences, is restored.

I will now turn to Export Trade Control. A substantial sector of the country's export trade is now free from such control. In fact, in the context of the altered circumstances, there has been naturally a shift in emphasis from export trade control to export promotion. There are, however, certain items in respect of which supplies available for export after meeting the internal requirements are not so large as to warrant liberal exports. It has been noticed that Government have been adopting the system of 'first-come-first-served' or a system closely akin thereto, for grant of export licences in respect of some of these items. We have, in the past, drawn Government's attention to the disadvantages of such a system of issue of export licences. Under this system, all those who happen to apply first naturally get licences, even if any of them have not the necessary background of experience in handling exports in the particular line, whereas some of those, who have got sufficient and long-standing experience in the export of the articles concerned may not succeed in getting licences simply because, for want of sufficient time to complete all formalities, they are not able to submit their applications before the overall fixed ceiling is reached. The exporters who do not succeed in getting export quotas under such circumstances, even after going through all the procedural formalities, naturally feel aggrieved that they are put to unnecessary inconvenience. Another disadvantage of the 'first-come-first-served' system of issue of export licences would be that it is often likely to lead to undesirable practices on the part of the licensing authorities in charge. We, once again, submit that the system adopted for the grant of export licences in respect of items for which liberal licensing is not possible should be such as would duly take into

account the claims of all those who have been in the export line for the particular item for a long period of time and the time allowed for the submission of applications for export licences should also be sufficiently long.

As I said earlier, in the sphere of export trade, the emphasis has now changed from export control to export promotion. Our country has embarked upon an export promotion drive and several measures calculated to stimulate our exports have been taken in the course of the last few years. The results achieved so far, however, are not in keeping with the requirements of the situation. Our export trade has become stagnant during the last 2/3 years. Our import bill has, on the other hand, increased substantially, mainly because of the imports of essential items like machinery and plant, iron and steel, cement, etc. required in connection with the developmental projects under our Plan. The country is thus faced with the serious problem of foreign exchange. It will be readily agreed that, although it would be necessary for the country to avail itself of all the available external sources of finance for meeting the foreign exchange requirements of the Plan, in the ultimate analysis the problem of foreign exchange can be solved only by our own efforts. These efforts will have to be in two directions, viz. reduction of imports and maximisation of export earnings. The scope for further cuts in imports at the present moment is admittedly very limited and under the circumstances, the only alternative for us is to intensify the export promotion drive, so as to diversify our exports both in relation to commodities and in relation to the markets. The responsibility in regard to export promotion is a joint responsibility of the Government and the mercantile community. Both must make a co-ordinated effort to stimulate exports and take more positive steps in that direction. Some of the more important measures we would like to suggest for the purpose are periodical surveys of export markets for the various products, strengthening and revitalisation of the offices and organisations of the Trade Commissioners abroad, greater attention to quality of export products, simplification of the procedure prescribed in connection with the grant of rebate or drawback of duties, ensuring adequate and expeditious supply of the raw materials required by the various export industries, provision of adequate transport facilities for the quick movement of raw materials and finished goods.

Before concluding, Sir, I would thank you for the opportunity, given to us, of meeting you this afternoon and request

you to give us the benefit of your views and observations on the points to which I have referred just now.

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## APPENDIX 35

### Export Promotion

*Letter dated 16th May 1957 from Chamber to the Member-Secretary, Export Promotion Committee, Ministry of Commerce and Industry.*

I am directed by the Committee of the Indian Merchants' Chamber to refer to your Circular letter No. EPC/MSV/1 dated the 4th March 1957, and to send to you hereby their views and suggestions on the subject of Export Promotion in general and their replies to the Questionnaire issued by your Committee.

At the outset, my Committee would like to make a few general observations bearing on the subject-matter dealt with by the Export Promotion Committee.

#### *Plan and the Foreign Exchange Requirements:*

Recently, there has been a serious setback in the balance of payments position of the country and this has given rise to the problem of foreign exchange once again. In the past also, the country was confronted with similar problems. But the present situation is different from similar situations on earlier occasions in one important respect. Whereas, on the previous occasions, the problem of foreign exchange was caused by heavy imports of foodstuffs and other consumer goods which the country had to import from abroad to sustain the economy of the country, on the present occasion, the problem has arisen as a result of large imports of items of a developmental character like iron and steel, cement, machinery and other capital goods. The present foreign exchange problem, therefore, unlike similar problems in the past, reflects the developmental character of the country's economy and there is, therefore, no need to take an alarmist view of the situation. The problem has arisen not because of any fall in exports but because of substantial rise in imports of the above developmental items. Thus in the years 1953-54, 1954-55 and 1955-56, exports were valued at Rs. 530.97 crores, Rs. 593.54 crores and Rs. 597.31 crores respectively. The corresponding figures for imports were Rs. 566.89 crores,

Rs. 656.26 crores and Rs. 678.83 crores respectively. During 8 months from April 1956 to November 1956 exports and imports were valued at Rs. 383.19 crores and Rs. 534.83 crores respectively.

At the same time, the magnitude of the problem must be properly appreciated in the light of our plans for economic development. Our Second Five-Year Plan lays greater emphasis on industrialisation and, considering the large leeway which the country has to make up in the industrial field, the emphasis on industrialisation will have to be continued in subsequent plans also. The country will, therefore, require larger and larger amount of foreign exchange with which to import machinery and capital equipments and other essential items for developmental purposes. As can be seen from the above statistics, the value of our imports has gone on increasing successively and, as it is not accompanied by a corresponding rise in export value, the adverse trade balance has been mounting year after year. Thus, during the years 1953-54, 1954-55 and 1955-56, the adverse balance of trade was of the order of Rs. 35.92 crores, Rs. 62.72 crores and Rs. 81.52 crores respectively. During the first 8 months of the financial year 1956-57, the negative balance of trade has increased appreciably, it being as high as Rs. 151.64 crores. It is, no doubt, true that, as the industrialisation of the country goes on apace, we will be in a position to effect further cuts in the imports of some additional items of consumer goods. To that extent, the strain on the foreign exchange resources of the country will be reduced. But it will not make any great difference to the problem of foreign exchange which we will have to face in the wake of the developmental programme which we have launched under the Five-Year Plans. We will have, therefore, to go on the basis that for a sufficiently long period, our developmental programme will continue to have a great impact on the foreign exchange resources of the country.

It is difficult to assess precisely the foreign exchange resources that would be required for the developmental programme during the Plan period. Nor is it possible to form an exact estimate of the earnings of such resources for the same period for the obvious reason that there are many uncertainties in the situation. Several of our export commodities are subject to wide fluctuations in the world markets. Similarly, as has been pointed out by the Planning Commission, there are shifts and changes from time to time in the terms of the trade and even a small deterioration in these terms will make a sub-

stantial difference in the balance of payments position of the country. Further, there are difficulties in assessing our exact import needs and requirements for the developmental programme. For, that will depend upon the availability of machinery, plant and other equipment and basic raw materials from abroad. All the same, it would be necessary to make at least a rough estimate of the trends in the balance of payments position of the country and to assess the country's requirements of foreign exchange over the period of the Second Plan. The Planning Commission themselves have attempted such an estimate. They have estimated an aggregate deficit of about Rs. 1,100 crores in our balance of payments position on current account over the Plan period. The general picture emerging from the estimates of the Planning Commission is that, over the entire Plan period, the total exports would be of the order of about Rs. 2,965 crores, whereas total imports will be to the extent of about Rs. 4,340 crores, leaving an adverse balance of trade of nearly Rs. 1,375 crores, which works out to an annual average of Rs. 275 crores. Allowing for the surplus of about Rs. 255 crores on invisibles, the negative balance of payments on current account over the Second Plan period is estimated at a total of Rs. 1,120 crores or Rs. 224 crores per year. The negative balance is now expected to be much larger. The Plan envisages withdrawal of Rs. 200 crores from the foreign exchange reserves and the balance of the deficit of Rs. 900 crores (actually, this balance will be larger, in view of the fact that our sterling balances have been drawn down by as much as Rs. 200 crores during the first 7 or 8 months of the Second Plan period, which means that what was contemplated by the Planning Commission to be spent in 5 years has been actually spent in a short span of 7 or 8 months) is sought to be covered by floating public issues in foreign money markets, by arranging for bankers' credits and export credits for supply of goods from foreign countries, by borrowing from the World Bank and the International Finance Corporation, by loans and grants from other International institutions, through private foreign investments and through loans and grants from friendly foreign Governments. While it would be necessary to avail ourselves of all these sources of external finance for meeting the foreign exchange requirements of the Plan, the fact remains that, in the ultimate analysis, the problem will have to be solved by ourselves by relying on our own efforts, i.e. to say by a careful husbanding of our foreign exchange resources, on the one hand, and by making efforts to increase them, on the other.

*Accent on Exports:*

The first of these two courses implies that the imports will have to be maintained at the minimum level possible. Here, it must be said to the credit of Government that on the whole, the import policy which has been in force in this country for the last few years duly takes into account the country's foreign exchange position and suitable adjustments are made in the policy, with a view to keeping the overall imports within the limits of the available foreign exchange resources. Under the policy, imports of consumer goods are allowed to the barest minimum necessary and import of industrial raw materials and machinery and plant are permitted liberally. There is very little scope for further reduction in imports, at any rate, in the immediate future, and this underlines the need to lay stress on the second alternative course for the solution of our balance of payments problem, viz. to augment the foreign exchange resources by stimulating our exports.

We have already launched an Export Promotion Drive. But the same is not commensurate with the requirements of the present situation and needs to be further strengthened. The first essential pre-requisite for the purpose is the creation of a greater degree of export consciousness. It must be impressed on people's minds that an acceleration of the economic progress of the country would not be possible without substantially stepping up our exports. Export Promotion, in other words, should be considered as an integral and vital feature of the Plan for the economic development of the country. From that point of view, the Second Plan reveals one serious lacuna, for it lays no goal or target in regard to the country's exports. In fact, the Plan assumes that any increase in exports will not be possible. When there is such a correlation between exports and the Plan for economic development, it was but proper that the Plan should have indicated the manner and method of stimulating our exports.

*Greater Export-mindedness:*

As stated above, the country must become more and more export-minded. Our manufacturers and traders must pay greater attention to export markets. We are concentrating more on the home market and ignoring the possibilities of the markets for our products overseas. This tendency must be got rid of. In the context of the paramount need for expansion of markets, with a view to maximisation of the foreign exchange

earnings, it would not be unreasonable to suggest that we should earmark a certain portion of our production of as many times as possible for the export markets. It is time for us to reorientate our Export Policy in this manner and to satisfy the demand of the export markets not only in respect of commodities which we can offer them conveniently but also in respect of commodities which those markets are in need of. Such a policy would, of course, call for a certain amount of sacrifice on the part of the domestic consumers. We must export scarce goods for earning foreign exchange required for the purpose of importing other scarce goods which we need. We must take particular care to see that we do not lose our hold on the export markets for our traditional items of export and if the supply position of any of these items does not permit of exports in the normal quantity, efforts must be made to augment their production as early as possible. We have built up good markets for some of the agricultural products like raw cotton, oil-seeds, etc. As, however, these are required increasingly within the country both for domestic consumption and industrial purposes, the exportable surplus is not adequate to enable the country to fulfil the export demand in full. It is gratifying to note that Government have recently realised the need for a substantial increase in agricultural production. It is, however, necessary to provide adequate financial resources for the purpose.

#### *Diversification of Exports:*

We must diversify our exports, both commodity-wise and country-wise. It is common knowledge that more than half of the foreign exchange resources of the country are, at present, earned by exports of the three staple commodities, such as cotton piecegoods, jute manufactures and tea. While these three commodities will naturally continue to constitute the mainstay of our exports, it should be our endeavour to make the pattern and composition of our export trade varied by exploring the possibilities of exporting new products. This is essential particularly in view of the fact that our main export lines for some time have been facing keen competition in the export markets. As has been observed by the Planning Commission, the scope for substantial increase in the export of our staple commodities seems to be limited in the immediate short run and it is for this very reason that we must develop exports in new lines as a sort of second line of defence, if we are to maintain our exports at a high level and attain a still higher

level. Secondly, we must take steps to find out new markets for our export products. There are great potentialities for increasing our exports to the markets in Africa, South-East Asia and West Asia.

During the First Five-Year Plan period, our country entered export markets in respect of certain new lines, such as sewing machines, diesel engines, pumping sets, electric fans, bicycles and other light engineering goods. Having introduced these lines in the export markets, we should now make efforts to expand their exports to a level at which they can earn a substantial amount of foreign exchange for the country. Further, we should also explore the possibilities of introducing other fresh items of export in the various foreign markets. Towards that end, it would not be unreasonable to suggest that while formulating detailed industrial programme under the Plan, high priority should be given for the establishment of industries which would have a great export potential.

#### *Incentives to Exports:*

There are certain measures which are essential for the purpose of Export Promotion. One of the important measures taken by the various advanced countries for stimulating their exports is to give fiscal incentives to exports. In Australia, for instance, export subsidies are given in respect of certain specified goods. The system of subsidy is in operation also in other countries like Belgium, Canada and the U.S.A. The other measures adopted by way of fiscal incentives to exports elsewhere include remission of direct taxation, refund of social welfare charges, advances to exporters on easy and favourable terms, schemes for currency retention and import entitlement and preferential rates for the conversion of export earnings into domestic currency. While it may not be possible for the country to introduce all these measures immediately for revenue and other considerations, there are certain immediate measures of an essential character which will have to be taken if we want to stimulate our export trade. Some of the measures such as draw-back of import duty and rebate of excise duty have already been taken. We will have to consider the feasibility of introducing other measures of fiscal incentives. Remission of direct taxes earned from exports is given in certain countries like Japan and such a measure has proved very effective in stimulating exports. The Export Promotion Committee (1949) had also recommended a scheme of remission of income-tax on exports. In terms of the scheme as recommended by the Gorwala

Committee, rebate of income-tax should be allowed to the exporters on the basis of percentage of profits earned from exports. If a firm exported the same quantity in a particular year as in the base year selected for the purpose, it should be given a rebate of 10 per cent of the proportionate profits made by it from exports. If the firm increased its exports over the basic exports by 25 per cent, the rebate would be increased by 5% and for every such further increase of 25 per cent over the basic figure, it would go on increasing by 5 per cent. The Committee had observed that such a scheme, while it was not likely to cost Government much, would provide a real incentive to exports. It is worthwhile considering the question of introducing some such scheme of rebate of income-tax on exports and implement it at least on an experimental basis with a view to finding out its potentiality as a measure of Export Promotion.

The feasibility of giving some of the other fiscal incentives mentioned above may also be considered. The question of giving subsidies for specific purposes may be considered. It has been brought to our notice, for instance, that there is surplus of Jaggery (Gur) in the country which could be refined into sugar and exported. This would be possible by giving certain subsidies to the sugar factories to adapt their plant for the purpose of manufacturing sugar from Gur during the off season. While on the question of fiscal incentives, one point that requires to be prominently borne in mind is in regard to the procedure laid down in connection with such incentives. The procedure adopted in connection with the drawback of import duty is complicated and cumbersome and very few exporters have come forward to take advantage of the scheme. The procedure requires to be greatly simplified so as to enable a large number of exporters to take advantage of the scheme.

#### *Joint Responsibility:*

The task of Export Promotion is a joint responsibility of the Government, the industry and the trade. The establishment of Export Promotion Councils for some of the items of export is a recognition of this fact. These Councils are the embodiment of the idea of joint and co-ordinated effort to stimulate exports. While Government have to play their part in the matter of Export Promotion by grant of fiscal incentives of the type mentioned above and by giving other necessary facilities such as adequate transport facilities for imports of raw materials required by the export industries and by providing a machinery for supplying information about the export mar-

kets, etc., the industry and the trade must also play their respective roles in this matter. They must, of their own accord, apply their mind and find out various ways and means of exporting larger and larger quantities of the items which are already figuring in our export trade and to find out new markets for our export products. They should also try to develop export markets for new products which are manufactured in the country under the Plan. This is to be done by a planned programme of survey of the export markets for the various commodities at regular intervals in consultation with Government agencies and Export Promotion Councils, wherever they are existing, by sending Trade Delegations and Missions to make on-the-spot study of the conditions in the overseas markets with the help and co-operation of our Trade Representatives abroad.

#### *Quality and Price:*

Quality and price are the twin major factors having an important bearing on the Export Drive. If the Indian goods have to compete successfully with the products coming into the International markets from alternative sources of supply, it is essential to see that they are of a high quality and standard. In this, a good deal of responsibility rests with the manufacturers and producers. Inspection of goods before exports would also ensure export of only quality goods. Such a scheme is in operation in respect of cloth. Although the scheme is worked on a voluntary basis, it is in the interest of every exporter, and of the country as well, to take advantage of this facility. It is to be hoped that an increasing number of exporters of cotton textiles would avail themselves of this facility of the pre-inspection scheme. Exporters of other commodities should also devote greater attention to the quality of goods and their packing. It must be remembered that if bad quality goods are exported, it would tarnish the name of the whole country and will do an incalculable and irretrievable harm to the cause of Export Drive.

Price is another important factor. The cost of production of an article is the main determinant of the price charged to the consumers. It would, therefore, be necessary for the manufacturers to effect economies in their cost of production and to keep the same to the minimum level.

#### *Rationalisation of Export Industries:*

In order to enable the industries to produce quality goods, one of the most essential things to do is to give facility for the

replacement of the old and worn-out machinery and equipment by modern up-to-date ones. With the obsolete and old machinery and plant, it would be impossible for the Indian industries to increase their efficiency and to improve the quality and standard as also the finish of their products and to bring down their cost of production. It is, therefore, very essential that in order to improve their competitive capacity in the foreign markets the indigenous industries should be positively helped by all possible means, including financial, for providing assistance for replacing their worn-out and obsolete machinery by up-to-date equipment and modernise their technique of production.

#### *Export Promotion Cell:*

With carefully prepared plan and sustained drive, it should not be difficult for us to increase our exports by at least 25 per cent as suggested by the Minister for Commerce & Industry last month in the course of his broadcast talk. Perhaps it would not be out of place to suggest that a special organisation called Export Promotion Cell with a Deputy Minister at its head should be set up in the Ministry of Commerce & Industry to prepare a comprehensive plan for export promotion and to carry out the same. Representatives of trade and industry should be associated with this special organization. The Export Promotion Cell should be in charge of the day-to-day work in connection with export promotion. It should co-ordinate the work of the various Export Promotion Councils, process the reports of our Trade Representatives abroad and bring the export possibilities immediately to the notice of the trade and industry concerned, attend to the difficulties experienced by exporters and generally take all necessary measures calculated to stimulate our exports.

With these general observations, my Committee would proceed to answer the questions in the Questionnaire *seriatim*:

#### *Q. 1. General:*

(a) *Would you consider that it would be better to deal with the problem of export promotion both from short- and long-term points of view? In the short run what are the steps that are necessary to be taken by Government, Industry and Trade to step up exports?*

*What are the specific commodities the export of which can be augmented/developed immediately and to what extent?*

*What are the measures required to be taken to provide a strong basis for maintaining and increasing exports so essential for the successful implementation of the Second Five-Year Plan and subsequent Development Plans?*

- (b) *What difficulties do Indian exports encounter in foreign markets? What suggestions have you to make for increasing the competitive strength of these exports in terms of price, quality, etc.?*
- (c) *Are the arrangements for acquainting the foreign buyers of Indian commodities in respect of their uses and quality adequate? If not, what measures would you suggest to make them more effective?*
- (d) *What measures should be adopted to increase the production of raw materials which could be processed and/or turned into manufactured goods for export?*
- (e) *What scope is there for the promotion of exports in respect of commodities which have not entered into the foreign trade of the country? Please give concrete instances of the commodities and the markets where they can be placed.*
- (f) *What are the possibilities for developing India's (1) entrepôt trade, (2) re-export trade, and (3) external trade, i.e. merchandise operations conducted by merchants in India buying goods from one country and selling them to another outside India?*

(a) The problem of Export Promotion can be considered from the short-term point of view and the long-term point of view. In our considered opinion, however, there is no need for considering the problem in these two ways separately. The aim should be to stimulate our exports as much as possible and in the shortest time possible and every step or measure that is necessary to attain this aim will have to be taken. Even if a measure is taken with a view to promoting our exports of any particular commodity or group of commodities in a short time, we will have to continue our efforts in the direction of export promotion for the purpose of retaining the level of export trade reached in that commodity or group of commodities. The principal steps to be taken by all the agencies concerned, namely, the Government, the industry and the trade to step up our exports, have been indicated in our preliminary observations. The same are recapitulated in brief below in the course of our reply to the other parts of this question.

*Commodities, the export of which can be augmented/ developed immediately*

#### *Cotton Piecegoods:*

Among the staple commodities of exports, the three most important are cotton piecegoods, jute manufactures and tea. As regards cotton piecegoods, the country has set before itself a target of 1,000 million yards per year for export. Our country could reach this target of exports only once and that was during 1950-51, during which we exported 1,270 million yards valued at Rs. 116.68 crores. In that year, cotton piecegoods was the largest single item in our export trade, its share in the

total value of exports being more than 20 per cent. Subsequently, however, we have not been able to reach the target of 1,000 million yards. It should be our endeavour to reach this target. The task is, however, not an easy one. There are several adverse factors which are in operation. In the first place, the world trade in cotton piecegoods is shrinking. Most of the cotton-growing countries which formerly used to import cotton piecegoods from abroad have recently started manufacture of cotton piecegoods themselves. For instance, the weaving capacity of the textile industry in Brazil, Mexico, Argentina, Greece, Turkey and Peru has steadily increased in recent years. Pakistan has also increased her production. Mills are also being erected in East and West Africa, which will use locally grown cotton. All these have resulted in curtailment of imports of cotton piecegoods by these countries and consequently the reduction in world trade in this commodity. Secondly, there is growing competition which India has to face from other countries like Japan and the U.K. in this line. Thirdly, there is competition from substitutes such as rayon and other synthetic fibres which are slowly replacing cotton textiles to a certain extent. China and Pakistan have also started offering competition. As such, more positive efforts must be made to assist the Textile Industry as a whole to renovate and replace their obsolete plants and machinery both by way of financial assistance as well as technical guidance to prepare them for manufacturing those qualities which are in demand in the foreign countries. Special study group of experienced technical personnel must be entrusted to solve this intricate and difficult problem. If we proceed on proper lines and make an all-out effort as indicated, it should not be difficult for us to reach the target of 1,000 million yards.

#### *Jute Manufactures:*

The peak level of exports of this commodity during the period of the First Five-Year Plan was reached in the year 1955-56, when India exported 864,000 tons of jute goods. The target of export in respect of this commodity is 900,000 tons. It should be possible for us to step up our exports of jute manufactures to this target by stages, if not all of a sudden. We must, however, reckon with the heavy odds against us, the important ones of which are the steady growth of foreign jute manufacturing capacity, the rising cost of raw materials required by our industry, emergence of substitutes, etc. We have already taken certain measures for the purpose of pro-

motion of our exports of jute goods. For instance, the markets in the U.S.A., the U.K. and Canada have been continuously explored by means of concerted propaganda. Nation-wide advertising campaign has been launched in the United States of America to encourage the use of burlap packing in the agricultural field. Attention is also being paid to the production of light-weight 50 lbs. packets for the packaging of potatoes to counteract the increasing use of multi-wall paper packets. Promotional activities have also been increased in Australia and New Zealand. If these efforts are continued vigorously, the target of 900,000 tons fixed for export of jute manufactures should not be outside our reach.

#### *Tea:*

The percentage share of tea to our total exports during the last 5 years on an average has been 18 per cent. In 1954-55, this commodity was the largest single item of export which earned for the country foreign exchange to the tune of Rs. 147 crores, which means 25 per cent of our total export earnings. In 1955-56, India exported 401 million lbs. of tea valued at more than Rs. 108 crores. In the Second Plan, it has been estimated that the production of tea by 1960-61 will rise to 700 million lbs. The Plantation Enquiry Commission has also estimated the production to rise to 710 million lbs. Making allowance for about 250 million lbs. required for internal consumption, we will have an exportable surplus of 450 million lbs., which should bring us a sizeable amount of foreign exchange. This would, however, require better organization of the tea industry, intensification of the propaganda in the various foreign markets, well-planned market studies and search for new markets such as the Middle East. The question of the levy of export duty and other imposts on this commodity with a view to reducing the burden of the same should also be considered.

#### *Other Items of Export:*

We have dealt with the three major commodities of exports which between them account for more than 50 per cent of our export earnings annually. Among other important commodities which have been figuring traditionally in our export trade, mention may be made of vegetable oils, hides and skins, black pepper and other spices, iron ore, manganese ore, unmanufactured tobacco, cheap cigarettes and beedis, cotton yarn, coir manufactures, coal, fruits and vegetables, shellac, resin, mica,

cashew nuts, etc. There are possibilities of developing the exports of these items. Some of them are increasingly required for the indigenous industries. For instance, oilseeds are required by the Vanaspati and Soap industries and hides and skins by the leather goods industry. Measures should be taken to expand the production of such items so as to be able to satisfy both the export and domestic demand for them. There are a number of other miscellaneous items newly introduced in the export markets, items such as chemicals and chemical preparations, pharmaceuticals, glass and glassware, paints and painters' materials, paper and paste boards, rubber manufactures, woollen piecegoods, silk and art silk piecegoods, plastic goods, light engineering goods (such as pumping sets, sewing machines, bicycles, diesel engines), sugar, ready-made garments, cinema films, etc. The prospects for these items particularly in the nearby countries, i.e. countries in the South-East Asia and West Asia are particularly good. We are already exporting handicraft products, antiquities, curios, silverware, ivory-ware, etc. The possibilities of stepping up exports of these items to the different countries, including advanced countries like U.S.A., appear to be bright.

Sugar, particularly, seems to be a promising item of export. Since 1956, the Sugar Industry has found itself in a position to export a large quantity of sugar in view of the increased production of sugar within the country. In the year 1956-57 about a lakh tons of sugar have already been sold to various countries including the Persian Gulf Ports, Burma, Malaya, Iraq, Saudi Arabia, East Africa and even the United Kingdom. In view of the present world position of supply of sugar, it is possible for India to increase its export to two/three lakhs of tons of sugar every year and if this materialises, it would be possible to get foreign exchange to the extent of about Rs. 8 crores for every lakh of tons of sugar exported. The various State Governments can facilitate such exports of sugar by remission of the cane cess in order to help the export. There is, however, one point which requires to be mentioned in this connection. Certain State Governments have adopted the policy of allowing further expansion of the sugar industry only through Co-operative Societies and not through the private sector. The policy requires to be reviewed so as to remove the restriction on the establishment of new units and the expansion of the existing units in the private sector.

There are possibilities for developing exports of certain new products. It has been pointed out that there are certain

kinds of oilseeds like seeds of tobacco, neem, pisa, karanj, etc., whose oils can be exported. If necessary, the collection of such seeds and their crushing may be subsidised.

*Measures to be taken to provide a strong basis for maintaining and increasing our exports*

In our preliminary observations we have dwelt at length on the measures that have already been taken and that require to be taken for export promotion. To recapitulate, following further measures should be taken for strengthening our export drive:

- (1) Diversification of our exports both in relation to the commodities and the countries.
- (2) Simplification of the procedures laid down in regard to grant of drawback of import duties on raw materials used in the manufacture of exported goods and rebate of excise duties on goods used in the manufacture of exported goods.
- (3) Grant of further incentives to exports such as rebate of direct taxes on profits made on export.
- (4) Reducing the cost of production of the finished goods so as to enable our products to compete successfully with the products coming from alternative sources in the export markets. This would necessitate modification, to a certain extent, of our taxation and social and labour welfare laws so as to minimise the burden of the imposts caused by them on the industries manufacturing export products.
- (5) Improvement in the machinery for collating and disseminating statistical data and other relevant information in regard to the needs and requirements of the importers in the various importing countries.
- (6) Greater stress on market surveys of the various export markets and study of consumers' preferences in the various importing countries.
- (7) Sending Trade Delegations and Missions by Export Promotion Councils in respect of commodities for which such Councils are in existence and by the accredited trade associations in respect of others with Government support and backing.

- (8) More systematic participation in the International Fairs taking place in the various countries and display of the samples of Indian goods in the showrooms and emporia attached to our Trade Commissioners' offices abroad.
- (9) Intensification of the propaganda and advertisement in respect of our export commodities in the various foreign markets through the media of important journals devoted to the study of trade and industry in the countries concerned and through important local newspapers, periodicals and trade journals—such propaganda and advertisement being carried on preferably on an organised basis by the Export Promotion Councils, where they are existing, and by trade associations in other cases.
- (10) Strengthening of the organisation of our Trade Commissioners and Commercial Secretaries abroad.
- (11) Establishment of an Export Promotion Cell in the Ministry of Commerce & Industry to co-ordinate the work of export promotion undertaken by the various Export Promotion Councils, to process the reports received from our Trade Representatives abroad with particular reference to matters such as consumers' preferences in the importing countries, the extent of competition that has to be faced by the Indian products in those countries, the position regarding local production and supply position in regard to various commodities, possibilities of developing exports of particular items and introduction of new lines of exports to those countries, etc., and to pass on the same to the accredited trade bodies.
- (12) Rationalisation of machinery and equipment of the exporting industries so as to increase their efficiency and to improve the quality of their products and to reduce the cost of production of the finished product.
- (13) Extension of facilities to the merchants to open branches in foreign countries.
  - (b) The difficulties experienced by Indian exporters in the foreign markets arise from the following circumstances:
    - (1) The products of the other countries have long been introduced and the same have become well known and popular in those countries.

- (2) Large foreign companies have started factories in the importing countries with the consent of the Governments of those countries with a condition that their products should enjoy sole monopolies. It is reported that such has been the case in Burma.
- (3) Many exporting countries have Export Credit Guarantee Schemes in operation. The importers in certain countries prefer to buy goods from those countries where the Export Credit Guarantee Schemes are in operation, as they get easy credit from the exporters from such countries. The proposed introduction of a similar scheme in India will remove the difficulty caused by this factor.
- (4) In certain countries the import tariffs are on the high side.
- (5) Ban on imports of certain articles exportable from India in certain countries as, for instance, ban on importation of steel goods in Pakistan.
- (6) Competition faced by Indian goods previously enjoying monopolistic position in the export markets, such as jute goods as a result of subsidies given by the Government of other exporting countries.
- (7) Cut-throat competition experienced by some of our staple products such as cotton textiles as a result of the low wages obtaining in some of the other exporting countries, as for instance, Japan, in regard to cotton textiles.
- (8) Difficulties caused to Indian firms in opening branches in certain overseas countries as a result of disabilities from which our Nationals in those countries are suffering.
  - (c) The publicity to our export products carried on in various forms serves to acquaint the foreign buyers with the quality of our products and their uses. Such publicity is carried on by the Export Promotion Council in respect of the commodities with which they are concerned. The Cotton Textile Export Promotion Council, for instance, issues an overseas edition of their bulletin entitled "TEXPROCIL". The Silk and Rayon Textiles Export Promotion Council also forwards samples for display to the overseas markets through our Trade Representatives there. The propaganda and publicity

undertaken by the various statutory boards and Committees in regard to various items like tea, coffee, jute goods, etc. is also greatly helpful in bringing the export products concerned to the notice of the consumers in foreign countries.

Sustained propaganda and publicity to our products of which there are great potentialities of stimulating exports, particularly in the neighbouring markets, i.e. markets in South-East Asia and West Asia are greatly essential. In respect of items for which no Export Promotion Councils are established, propaganda and publicity should be undertaken on an organised basis by the accredited trade associations in collaboration with Government agencies like our Trade Missions abroad. If necessary, Government should contribute towards a part of the expenses required to be incurred in connection with such publicity and propaganda.

The media for such publicity will have to be carefully selected and that can be done in consultation with our Trade Commissioners or Commercial Secretaries in foreign countries. The Trade Commissioners should recommend to the Export Promotion Councils or other organised bodies concerned with the export of various commodities the names of prominent newspapers, Trade Journals and publications of Chambers of Commerce and Trade Associations in the countries within their sphere of activity and also furnish them detailed information regarding the rates of advertisement tariffs, etc. Being on the spot, they should be able to arrange for and secure advertising space in the important newspapers and journals of Trade Associations in the shortest possible time.

Our increasing participation in the various International Trade Fairs in recent years is also greatly helpful in giving publicity to our export products in the International markets. Display of goods is also arranged in the showrooms and emporia attached to our Trade Missions in some of the countries. Such showrooms and emporia having a permanent character, it would be worthwhile to have such showrooms and emporia in every country where we have got trade representation. The display of such goods arranged in showrooms and emporia should be of a detailed nature. Full particulars of the pattern and composition of the product, their quality, the various uses they can be put to, prices, etc., should be given. The Export Promotion Councils severally or jointly should also open commercial showrooms in respect of the articles with which they are concerned in the countries where the potentialities of increasing

our exports are great. Samples of the whole range of products with which the Council is concerned should be displayed in an attractive manner in such commercial showrooms, and, where necessary, the services of specialised technical men to explain the technical aspects of the items in question to the visitors to the commercial showrooms should also be provided there.

(d) Increased production of every raw material is desirable. If the raw material in question is not wholly required for use in the manufacture or processing activity in the country, the surplus can be exported and the country can earn foreign exchange to that extent. But having increased the production of the raw materials, an attempt should be made to export them in the manufactured or processed form rather than in the original form. The policy of the Government recently has been to export oils instead of the seeds themselves. But there is obviously a limit to which this can be done. While it should be our endeavour to export a particular item in the manufactured or processed form to the maximum possible extent, the extent to which this can be done will be limited by the nature of the external demand. For instance, we should try to export the product of our Vanaspati industry. But this does not mean that we should expand the production of ground-nuts and the raw materials required by this industry only to the extent of the industry's requirements (and of course in this case also domestic requirements) but we can also expand the production still further so that we can export our surplus production in the form of seeds or oils and get the necessary exchange.

Where the raw material in question is of an agricultural nature, the production should be increased by intensive and extensive cultivation and by the application of scientific methods and technique. In other cases, for instance, in the case of iron and steel also, we should increase our production as much as possible in the shortest possible time.

(e) For reply to this question, please see our reply to (a) above.

(f) The possibilities of developing re-export trade do not appear to be great. Further, because of the scarcity of foreign exchange we may not be able immediately to think in terms of re-exports unless there is guarantee of the foreign exchange required to be spent for import of the goods re-exported being more than repaid immediately. Moreover, there is abundant scope for developing exports of our own products. The same can be said about external trade.

**Q. 2. Export Policy and Procedure:**

- (a) *What are your comments on the operation of the Quota System in the export trade of India with special reference to the commodities in which the system prevails and its bearing on the volume of exports?*
- (b) *In view of the need to augment foreign exchange earnings, would it be advisable to release or increase the quotas for export of all exportable commodities even though it might cause some scarcity in the supplies available for internal consumption? If quotas are to be released or increased, what measures, in your opinion, should be taken to protect the Indian consumer?*
- (c) *Have you any suggestions to make towards the improvement of the Export Duty System?*

(a) A substantial sector of the country's export trade is now free from export control, there being naturally a shift in emphasis from export trade control to export promotion. Again, there are certain commodities which although subject to export trade control are, to all intents and purposes, free from the rigours of such controls, inasmuch as they are either freely licensable or export licences are granted for them without great difficulty. There are still a few commodities whose supply position does not warrant removal or relaxation of export control on them. The exportable surplus, after meeting the domestic requirements in respect of such items, is small in relation to the export demand and, as such, their exports have to be allowed on the basis of quota. Generally there can be no question as to the quota system having effect on the volume of exports of such commodities in view of the fact that there is limited quantity available for export and all of it is exported. Where, however, the quotas admissible to particular exporters are so small that it is not economic to effect exports, the quotas would lapse and to that extent the exportable surplus is not wholly exported. But such cases would be rare and even here the difficulty could be got over by allowing the exporters concerned to club their quotas for the two successive periods or to effect exports, under letters of authority from the licensing authority, through other exporters having larger quotas.

The adoption of the quota system is, however, necessitated not only by the availability of limited quantities for export but also by other extraneous factors such as scarcity of wagons and other means of transport for the movement of the exportable goods to the Ports of export. Thus, for instance, although the quantities of iron and manganese ores which are available for export are vast and, in fact, we are trying to step up the exports of these ores to the maximum extent possible, our efforts in this

direction are limited by the shortage of wagons necessary for moving the ores from the mines to the ports of shipment. In cases where fixation of quotas for export is necessitated by extraneous factors like limited wagon supply, the quota system has obviously adverse effect on the volume of exports.

While we concede the need for adoption of the quota system for export purposes under the above two circumstances, namely, limited exportable surplus and the insufficiency of transport facilities, we stress the need for the announcement of the quotas sufficiently in advance. Where the commodity subject to export quota is a primary or agricultural commodity, the export is of a seasonal character. In respect of such commodities, export quotas should be announced sufficiently in advance of the commencement of the season, so that the exporters can enter into timely commitments with the foreign buyers in the different markets. It is necessary to emphasize that in export promotion, time is of the very essence of things and, if there is delay in the announcement of the quotas, exporters from the other exporting countries steal a march over the exporters from this country.

(b) It is not necessary that export quotas should be released only when the supply position is quite easy and there is an exportable surplus after meeting the internal requirements. It is no doubt true that the domestic demand must receive priority in regard to any particular item. There are, however, certain commodities of which we have been traditional exporters and we have steadily built up export markets in certain countries. In the case of such commodities, even if the available supply does not strictly leave any surplus for export, we should make it a point to set aside a certain portion of the production for export purposes if only to maintain the continuity of exports to our traditional markets. Such a policy is desirable, because it is very difficult to regain hold over markets once they are lost to other exporting countries. Earmarking of a certain portion of exports of as large a number of export commodities as possible has a special significance in the present context of the acute foreign exchange position of the country. Apart from enabling maintenance of continuity of the different export markets, the foreign exchange earned by such earmarking will, in the aggregate, be appreciable. In this matter, we must have a realistic approach. We must remember that the task of building up exports is an uphill task and we must be ready for self-denial and tightening of the belt for the purpose of maximisation of foreign exchange resources so necessary for the implementation of the developmental plan.

(c) Prior to the last World War, export duties of importance were levied in this country only on raw jute and jute goods. In the post-war period, Government imposed export duties on a number of articles with a view to bringing about an equilibrium between the internal prices and the export prices and with a view to having a share in the difference between the two prices for the State Exchequer. In course of time, however, the market conditions in respect of numerous commodities subjected to export duties changed considerably and they began to experience price resistance and severe competition in the export markets. In response to representations from the various sections of the commercial community throughout the country, Government adopted the principle of having the question of export duties under constant watch in the light of the conditions obtaining in the export markets and making necessary adjustments in the levels of duties on the different items.

The Export Promotion Committee (1949) had observed that "to rely on export duty as a stable source of revenue is most unsafe and is opposed to every canon of fiscal prudence". Judged from this point of view, the continuance of the levy of export duty on cotton waste would appear to be inadvisable. Export duty on cotton waste was levied in the year 1950, when export prices earned by the Indian exporters were on the high side. While the action of Government in the imposition of export duty on cotton waste at that time may be justified, there does not appear to be any strong reason or justification for the continuance of the duty which is, at present, obtaining at the rate of 30 per cent on soft cotton waste and 50 per cent on hard cotton waste. The exportable surplus of this commodity is much larger than what we can actually export. Indian cotton waste has to meet with severe competition from the cotton waste of the other exporting countries which are having no export duty on the commodity and/or are giving subsidies to its exports by way of export incentives. Thus, for instance, in Pakistan and China which have emerged as two new competitors, export of cotton waste is totally free from export duty. In the U.S.A., subsidy is given to the export of staple cotton waste to the extent of Rs. 216 per candy with the result that the export price for American cotton waste is much lower than that for the Indian product. In view of the severe competition required to be faced by cotton waste in the export markets under the above circumstances, it is reasonable to suggest that the export duty on cotton waste should be abolished.

We would suggest the feasibility of earmarking and utilisation of a certain portion of the revenue derived from the export duties on particular items for subsidising the activities of rehabilitation of the respective trade and industry, particularly in times of recession.

*Q. 3. Assistance to Exports:*

(a) *Various forms of assistance are given at present to stimulate exports, such as the refund of excise duty, drawback of import duty, etc.*

*Would you suggest other forms of fiscal incentives also, such as remission of direct taxation, exemption from sales tax, refund of social welfare charges, currency retention, allocation of import quotas to exporters, etc.? The practicability of adopting these measures on revenue consideration as also our obligations under the General Agreement on Tariffs and Trade may be borne in mind while forwarding suggestions in this behalf.*

(b) *How can the present procedure for refund of excise duty and drawback of import duty be simplified, and the scope of relief extended? Give concrete suggestions.*

(c) *Please indicate whether any special facilities are required for expeditious movement of goods for export. Also indicate whether the freight rates require any adjustments. Please support your suggestions with concrete instances.*

(d) *What are the handicaps in the movement of goods by sea at present and what measures can be recommended for increasing shipping facilities? If you have concrete cases about alleged discrimination by shipping companies, they may be furnished.*

(e) *Would you recommend special facilities for export industries in obtaining capital goods, raw materials, etc.?*

(a) By way of fiscal incentives to exports, we are having systems of drawback of import duty and rebate of excise duty. Many countries, in their efforts to stimulate exports, afford various kinds of fiscal incentives. Australia, for instance, subsidises the export of certain commodities such as flax fibre, rayon yarn, sulphuric acid, butter and cheese. Belgium subsidises export of dairy products, films and coal. Such subsidy schemes are in existence in other countries like Canada and Germany in respect of specific commodities. Other measures in the nature of fiscal incentives which are adopted by the various countries are remission of direct taxation, refund of social welfare charges, advances to exporters on favourable terms, schemes for currency retention, import entitlement and preferential rates for the conversion of export earnings into domestic currency. Japan, for instance, grants some exemption from Corporation tax in respect of export transactions and their export-import bank provides credit to the exporters at a rate lower than that obtainable from the banking system. Great Britain has recently adopted a system of differential taxation on exports. We may

also, with advantage, introduce a system of refund of a part of the direct tax such as income-tax on the exports. The Export Promotion Committee (1949) had made this recommendation and had pointed out the lines on which the scheme should be introduced. The scheme suggested by them was that if a firm exported the same quantity in a particular year as in the base year that may be selected for the purpose, it will be given a rebate of 10 per cent of the proportionate profits it made from exports. If it increased its exports as compared to the exports in the base year by 25 per cent, the rebate would increase by 5 per cent and for every further increase of 25 per cent over the figure of basic exports, the rebate would go on increasing by 5 per cent. The Committee had observed that this Scheme would, while it was not likely to cost Government much, provide a real incentive to exports. As the Scheme suggested by the last Export Promotion Committee re: rebate of income-tax on exports, as above, would not cause any large loss of revenue to Government, it is worthwhile considering the feasibility of introducing the scheme on an experimental basis, with a view to finding out its efficacy as a measure of export promotion.

Another point which requires to be examined in regard to income-tax in relation to export trade is the impediment caused to such trade by the application of Sections 42 and 43 of the Indian Income-tax Act. Great confusion and difficulty have arisen because the term "business connection" occurring in Section 42 has been very literally construed by the taxing authorities and by some of the High Courts in the country. If a strictly literal interpretation is given to the term, it would appear that even a single transaction between a resident and a non-resident would be deemed to be a business connection and on that basis the resident would be called upon to discharge liability as an agent in respect of the tax due from the non-resident. In order to remove doubts regarding the real intentions of the scope and liability contemplated by this Section, a review of the provisions of the entire Section is desirable. Certain practical difficulties also arise in cases where the residents are treated as agents of non-residents. It is not possible for such agents, where a non-resident and more than one agent, to know the total income of such a non-resident through the agency of different persons in the country and consequently, it is not possible for any such agent to ascertain the tax liability and retain sufficient amount in his hands to meet the liability when the demand is finalised. This view has been confirmed by the

observations made by the Chief Justice of Bombay in a reference involving interpretation of the Sections in question. In order, therefore, to remove the confusion and difficulties arising out of the interpretation of the Section as at present, it is necessary that these relevant Sections should be so amended as to make it clear that non-resident principal would be subject to the taxation laws of this country only when he exercises a trade in India and not merely with India.

At a time when Government are taking all possible steps with a view to promoting the export trade of the country, it appears inappropriate that Government should, at the same time, discourage non-residents from importing goods from India by assessing them to income-tax on the profits alleged to be accruing to them as a result of their business connections with Indian exporters. It is, therefore, suggested that, to start with, immediate effect be given to the Recommendations of the Taxation Enquiry Commission in this behalf. Special mention may be made of the Recommendation of the Commission that the law should be amended to the effect that when goods are purchased in India, whether through a regular agency or otherwise, and are not subjected to any manufacturing or other processes before export, no profits should be attributed to such purchasing operations.

Closely allied with the question of export duty is the question of the levy of sales tax on exports. Sales tax is levied in the various States. The levy of sales tax on the last stage of exports is prohibited under the Constitution itself. There is, however, the question of levy of sales tax on the previous stages of sale through which the commodity passes before finally leaving the country. In certain States like Bombay, the sales tax system in operation ensures exemption for exports even at such earlier stages. There is, under this system, provision for the grant of authorisation and licence entitling the holders of such authorisation and licence to purchase goods for export purposes free of any tax under the Sales Tax Law. Such a system should be adopted in other States also, particularly in the States where the multi-point system of sales tax is in force, since under such a system, the cumulative incidence of sales tax goes on increasing with an increase in the number of stages the commodity meant for export goes through.

As already stated, under the Constitution, no sales tax is leviable on the last stage of exports and in certain States like Bombay, there is provision under the Sales Tax Law to exempt

exports from sales tax even at the earlier stages. There is, however, one point which requires to be mentioned in this connection. When an article meant for export from one State has to be imported from another State, it will bear inter-State sales tax at the rate of 1 per cent under the Central Sales Tax Act, 1956, when the Act comes into force with effect from 1st July 1957 (at the moment, there is no sales tax obtaining on inter-State sales in view of the Judgment of the Supreme Court dated the *6th September 1955*). As was observed by the last Export Promotion Committee, the levy of sales tax at any stage of exports has the effect of export duty and to that extent reduces the competitive capacity of our products *vis-a-vis* the products from alternative sources in the export markets. From that point of view, it may not be out of place to suggest that provision should be made in the Central Sales Tax Act, 1956, to ensure that inter-State sales tax is not levied on goods meant for export outside the country.

As we have already observed, price is one of the important factors determining the competitive capacity of our products in the export markets and the price is determined by the cost of production. Our cost of production should be kept to the minimum level possible. From that point of view, we have, in the course of our preliminary observations, suggested modification of the taxation laws and also the labour and social welfare charges which have been increasingly imposed on the industries. Refund of labour and social welfare charges can be given on a rough and ready basis.

As regards the currency retention scheme, such a scheme is in existence in some of the other countries and it has served its purpose in stimulating exports. The feasibility of introducing such scheme in our country may be considered.

Government have, in addition to liberalising the import policy for essential raw materials, introduced an Export Promotion Scheme, whereunder special import licences are issued to exporters in respect of raw materials to replace the imported raw material contents in the exported products. The concession has been extended from time to time to a number of raw materials and it now covers about 37 different items. Some additional raw materials may be included in the Scheme as and when necessary.

(b) We have already observed that the procedures which are in force at present in connection with rebate of excise duty and drawback of import duty are complicated and involved with

the result that the Schemes are not availed of on any large scale. It is necessary to review the procedures with a view to simplifying them so as to induce a large number of exporters to take advantage of the Schemes. The interests directly concerned should be consulted in the matter.

(c) At present, special facilities for the expeditious movement of goods for export are not made available. The overall transport position is not still satisfactory. There are common complaints of wagons not being available for a number of days. Owing to non-availability of wagons for movement of goods from the up-country centres to the ports of shipment, exporters are sometimes not in a position to offer for export their goods by a particular steamer in which they have secured shipping space. It is, therefore, necessary to provide special transport facilities for quick and timely movement of export goods from the producing or manufacturing centres to the ports of shipment. In the context of the highly competitive conditions obtaining in the International markets, every step calculated to increase the competitive capacity of our export products would be advisable. Towards that end, a review of the freight rates with a view to affording concessional rates on goods meant for export would be desirable.

(d) Difficulties are experienced by exporters in securing shipping space especially for shipment of goods to the ports in West Asia and South-East Asia. There are constant complaints of exporters not being able to secure freight for the destinations in these regions. Only over a limited number of routes in the countries in these regions, there is something in the nature of a regular shipping line operating. Again, for many destinational ports in this region, shipping facilities are available only at infrequent intervals. Even on routes where ships are regularly plying, the facilities are not adequate to cope up with the demand and particularly in cases where the routes are operated by one shipping line, there are a number of administrative difficulties which, in effect, result in reducing even the limited facilities available to the shippers. There were in the past recurring complaints of non-availability of freight space for shipment to the Persian Gulf Ports.

Complaints were also made in the past about discrimination by the foreign shipping lines in the matter of allotment of shipping space and charging of freight rates and Indian exporters are put to great disadvantage as a result of this discriminatory policy followed by foreign Shipping Companies. It is necessary

to ensure that such discrimination is not practised by the foreign shipping lines in future.

Another hardship experienced by the exporters in the course of the movements by sea results from the inadequate facilities available at the Ports. Our coastal and overseas trade has increased considerably during the last few years. But there has been no commensurate improvement in the clearing and handling arrangements at the docks. The berthing capacity at the major ports like Bombay, Calcutta and Madras is still limited with the result that ships have often to wait for days together for getting berths. Equipments like cranes are old and obsolete. Shortage of rolling stock hampers quick loading and discharge work. Warehousing and godown facilities at the Ports are also inadequate.

(e) As already stated in the course of the preliminary observations, the Government of India's import policy duly takes into account the needs and requirements of the country's developing economy and imports of machinery, capital goods and essential raw materials required for the various industries are granted on a liberal basis. The same facilities are available to the export industries as well. Furthermore, export industries are given concessional treatment in the matter of imports of raw materials. They are given special import licences under the Export Promotion Scheme for replacement of the imported raw material content of the finished products exported out of the country. The Export Promotion Scheme is extended to a number of export industries. If any particular export industry is left outside the purview of the Scheme, it would be open to it to approach Government for being included in the Scheme.

*Q. 4. Invisible exports:*

(a) *What measures in your opinion are required to be adopted for increasing our export earnings under (1) Indian Banking, (2) Insurance, and (3) Shipping?*

(b) *What steps should be taken to increase tourist traffic? Do you feel that the present facilities available to the tourists in regard to travel, accommodation, sight-seeing, etc. are adequate? How can they be improved?*

(a) *Banking:* According to the sample survey of distribution of imports and exports between Indian and non-Indian firms in the calendar year 1951-52 conducted by the Reserve Bank of India, about 70 to 75 per cent of India's import trade is in the hands of Indian firms, while the share of Indian firms in the export trade is about 60 to 70 per cent. However, only

about 20 to 25 per cent of the total import trade of the country is financed by Indian banks, the rest of the trade being financed by the foreign exchange banks. As regards exports, Indian banks handle about 25 to 30 per cent of the total export trade, the remaining being handled by the foreign exchange banks. The latest statistical position is not known. But the fact remains that the share of Indian banks in financing the import and export trade of the country is still very small. In view of the fact that a part of the earnings of the foreign exchange banks is remitted abroad, it would be desirable to canalise, to the maximum extent possible, the foreign exchange business of the country through Indian banks. As, however, a major portion of the financial resources of the Indian banks is required for financing internal business, it would be necessary to strengthen, by suitable means, their financial position in order to enable them to participate increasingly in the foreign exchange business of the country and thus add to the foreign exchange pool. The Indian business firms should make it a point to patronise the Indian banks. Government should also extend increasing patronage to such banks.

*Insurance:* The Indian Insurance Companies have been already earning a sizeable foreign exchange for the country through their operations in foreign countries. Some of the first-class Indian Insurance Companies have, in the course of the last few years, opened branches in the various foreign countries. There is need to give permission for opening more and more branches and to grant them increasing facilities, so as to enable them to extend their operations in the foreign countries on an increasing scale and thus to earn still larger amount of foreign exchange from this invisible item. If Government patronise the Indian Insurance Companies on an increasing scale, private parties will also be inclined to extend their patronage to such companies and this will enable the foreign exchange earnings of the country to be augmented.

*Shipping:* Shipping is another invisible item of trade which has great potentiality of adding to the foreign exchange resources of the country. The share of Indian Shipping in the overseas trade is, however, very small, it being barely 5 to 6 per cent. It has been roughly estimated that the country has to pay annually as much as Rs. 175 crores to the foreign companies for the carriage of its overseas trade, the Indian Shipping Companies earning only about Rs. 12 crores annually. This constitutes a heavy drain on the foreign exchange resources of the country. The position can be remedied by increasing the

share of Indian Shipping Companies in the overseas trade. But any great increase in the share of Indian Shipping would not be feasible without appreciably expanding Indian tonnage. Steps in that direction have already been taken. During the First Five-Year Plan period, Indian Shipping Companies were granted loans by Government on easy terms to acquire additional ships and the country reached the target of 6 lakhs GRT by the end of the Plan period. The Second Plan provides for the target of 9 lakhs GRT to be achieved by 1960-61, of which more than 4 lakh tons will be participating in the overseas trade. With the attainment of this target, the Indian tonnage is expected to carry 12 to 15 per cent of the country's overseas trade and about 50 per cent of her trade with the adjacent countries. This will mean that if the plans for expansion of the Indian tonnage are worked according to schedule, the earnings of foreign exchange by Indian Shipping would increase to about Rs. 20 to 22 crores. A good amount of foreign exchange which is at present required to be paid for the purchase of ships from abroad can also be saved by increasing the capacity of the shipyard at Visakhapatnam and by setting up another Shipyard.

(b) Tourist traffic is an important source of foreign exchange in a number of other countries. In India also, we have recently taken steps to exploit this invisible source of foreign exchange. The Tourist Department set up under the Transport Ministry is in charge of the work connected with the development of tourist traffic. It has opened tourist offices in certain selected centres in India. It has also started overseas tourist offices in some of the foreign countries and disseminates publicity material through these offices. As a result of the activities of these overseas tourist offices, India has, in the course of the last 2/3 years, won a place on the tourist map of the world and the income from tourist traffic is gradually increasing. The income derived from this source is, however, too low, considering the size of the country and as compared with the income earned by many other western countries. There is vast scope for further development of the tourist traffic in our country. This can be done by intensifying the publicity drive in the foreign countries and by improving the facilities for the tourists, such as accommodation, transport, sight-seeing arrangements, etc. To the middle-class traffic, particularly these facilities should be available at moderate charges. India, with a number of monumental, historical and sight-seeing places as also the various hydro-electric and other industrial projects, has great potentiality for the development of tourist traffic. The machi-

nery entrusted with the work of developing this traffic must discharge its duties and functions energetically. Our Tourist Centres abroad must be well-equipped so as to be able to furnish the information required by the prospective tourists promptly and expeditiously. The feasibility of setting up a special tourist organisation on the lines of those obtaining in some of the other countries which will have control over all the aspects of tourism may be considered.

*Q. 5. Methods of Export Financing:*

- (a) *To what extent are credit facilities available (i) from the stage of production or manufacture to the stage of export and (ii) from the stage of export to the stage of receipt of payment?*
- (b) *Will banks and various Industrial Finance Institutions in India be able to cope up with the demand for credits if exports increase? If not, what remedy would you suggest?*
- (c) *How can financial aid be made available to small exporters? Consider the case of handicrafts in this connection.*
- (d) *What is your opinion regarding exports on consignment basis? Should this form of exports be encouraged? If so, in regard to what commodities?*
- (e) *Will the institution of a scheme for exporting commodities through a single agency contribute to the promotion of exports? If so, in what commodities would you recommend the employment of such agencies?*
- (f) *To what extent will a system of auctions stimulate exports?*
- (g) *Are there other forms of sales which could be used to boost exports?*
- (h) *What role can export credit guarantees play in stimulating exports?*

(a) Exporters get credit from the commercial banks. The rates of interest and the nature of security required by the banks for such credit vary from exporter to exporter depending on his standing and creditworthiness.

(b) The Commercial Banks may not be able to cope up with the entire demand for credit if exports increase. The Industrial Finance Institutions will also not be able to provide credit facilities to the exporters on any large scale, as their resources are primarily required for meeting the financial needs of the industries for which they are set up. The feasibility of establishing a special institution like the Export-Import Bank of the U.S.A. or Japan should be considered. Such an Institution will be in a position to supply credit facilities for exporters at moderate rates.

(c) The special institution suggested in the answer to (b) above will be able to render financial aid to the small exporters.

(d) Consignment is not a very desirable system of export. Under this system, the exporter is not sure of the price he will

get. He is entirely at the mercy of the importer. The importer also does not exert himself much to realise a good price for the commodity because he has to remit the amount realised to the exporter after deducting the incidental expenses and his small commission. It is, therefore, not in our interest to encourage this system of export.

(e) We are not in favour of the idea of a scheme for exporting commodities through a single agency. It is difficult to understand how a single agency will be able to promote exports. On the contrary, being in a monopolistic position and in the absence of fear of competition, there will be no desire for a single agency to exert itself.

(f) The system of auction sale has one advantage, viz. that a large quantity can be disposed of in the market at one time. But, it is feasible only in respect of items like tea and wool for which there is large and widespread demand and which have been established in the export markets. There is a feeling that even in respect of these commodities, we will be able to realise greater price by direct contacts with the buyers in the various importing countries rather than through auction sales. But a sudden departure from the system of auction sales is not desirable. While continuing to resort to this system, we may also try to build up, wherever possible, markets by direct sales.

(g) Export sales by direct contacts with the overseas buyers appears to be the best form of export.

(h) The system of export credit guarantee can play an important part in stimulating exports. Such a system insures the exporters against losses likely to be caused by circumstances and factors beyond their control, such as insolvency of the foreign importer, default on his part in the payment of the exporter's dues, etc., and instils a feeling of security in the exporter's mind. The Export Credit Guarantee Scheme also encourages sales promotional activities by the exporters in the export markets as it usually guarantees a part of the expenses incurred by the exporter in connection with such activities in the event of those activities not producing any commensurate results.

*Q. 6. Administrative measures and the services rendered by existing institutions:*

(a) Please give your views on the need for and the working of agencies like the Export Promotion Councils, Commodity Boards and similar bodies. Do you recommend any additional steps to be adopted by these organisations for developing export trade?

(b) *The Director-General of Commercial Intelligence and Statistics at Calcutta and Commercial Secretaries, Attaches and Trade Commissioners abroad are the principal sources of official information in regard to trade contacts, etc. In what manner can their services be more effectively used? Are there any defects in their functioning which have to be removed? What part can they play in promoting the export trade? Have you any suggestions regarding the training of trade officers sent abroad?*

(c) *Do you think that adequate attention is being paid by traders to promote exports? Would you suggest any changes in the present set-up? Do you recommend the institution of export houses?*

(a) As stated in the preliminary observations Export Promotion Councils provide a forum for a joint effort in the direction of export promotion by the Government, the industry and the trade. Such Councils have been so far set up for cotton textiles, silk and rayon textiles, plastic goods, engineering goods, cashew and pepper, tobacco, mica and leather goods. These Councils have been doing useful work. They carry on propaganda and publicity in respect of their respective commodities in the export markets through their own Organs and other media. They also send samples for display in the show-rooms attached to our Trade Missions abroad. Some of the Councils have also opened their own offices in certain selected centres in countries which promise to be potential markets for their commodities. The Cotton Textiles Export Promotion Council has a system of inspection before exports. The Commodity Boards like the Tea Board and the Coffee Board also undertake propaganda in the export markets and carry on other sales promotion activities. They also pay increasing attention to the improvement of the quality of the respective commodities.

The Export Promotion Councils should undertake surveys of the various export markets and study the exact requirements of these markets. They should also periodically send trade delegations to the foreign countries where there are possibilities of developing exports. Such Delegations will be able to make on-the-spot study of those markets and to make a comparative study of the products from the other supplying countries. The Councils should also make it a point to participate in the International Exhibitions and Fairs in the different countries. It would also be profitable if they can have show-rooms and emporia of their own on a permanent basis in the important foreign centres. It would be advisable to have joint show-rooms for the various Councils, as this would reduce the overhead costs for each of them. The Councils should also, through their branches or agents abroad, undertake publicity through local papers and trade journals in local languages. Further, they

should devise ways and means of giving visual publicity to their respective commodities. The Councils should maintain a close liaison with our Trade Representatives in foreign countries as also the Trade Representatives of foreign countries in our own. The Cotton Textiles Export Promotion Council has machinery for enquiring into and investigating complaints from foreign importers and Indian exporters. It has also arrangements for arbitration in the disputes between Indian exporters and importers abroad. The other Councils should introduce similar arrangements for investigation of complaints and settlement of disputes. The Councils should take particular steps to see that the exporters maintain a high standard of business morality in their dealings with foreign importers.

(b) In the drive for Export Promotion, the agencies for collection and dissemination of the statistical data and other relevant information about the foreign markets have particular significance. The Director-General of Commercial Intelligence and Statistics and our Trade Representatives abroad are the official sources of such data and information. The Director-General of Commercial Intelligence & Statistics compiles the Directory of Indian Producers/Manufacturers and Exporters. The Directory is revised periodically. The statistics relating to our imports and exports are also compiled and published by him. This Publication is published in two forms—Monthly and Annual. The Monthly Publication gives commodity-wise statistics and the Annual is in two volumes, one giving detailed commodity-wise statistics and the other country-wise statistics. As regards the Monthly Publication, it is now brought out expeditiously. But the same promptness and expedition are not shown in the Publication of the Annual Volumes which contain commodity-wise and country-wise information of a detailed character. Steps should be taken by the Director-General of Commercial Intelligence & Statistics to bring out the Annual Publication with the minimum of delay.

The Director-General of Commercial Intelligence & Statistics also periodically publishes Directories of the Indian Manufacturers/Producers and Exporters and the Importers in the various foreign countries. He answers queries about trade possibilities from Indian and foreign firms. It has been pointed out that the Director-General of Commercial Intelligence & Statistics sometimes takes an unduly long time to answer such queries. As the information required is not forthcoming in a reasonable time, the firms concerned lose interest in the matter. It should be impressed on the Director-General of Commercial

Intelligence & Statistics that such information should be made available promptly and expeditiously.

The Offices of our Trade Representatives abroad can also serve as a useful source of information in regard to trade contacts, etc. The Trade Representatives send monthly reports giving information about market conditions and the same are published in the Supplement to the Indian Trade Journal. The Trade Commissioners also send Annual Reports. Extracts from such Reports are given in the Industry and Trade Journal, a monthly publication of the Ministry of Commerce & Industry. It is necessary to emphasize that such reports should be brought to the notice of the Indian exporters immediately, as late publication of these reports detracts from their practical utility and they have only academic value. We are now having a network of Trade Commissioners' Offices in a number of foreign countries. They can play a vital and useful role in the matter of export promotion. They are an important link between the exporters at this end and the importers at the other end. Being on the spot, they are in a position to furnish information required by the Indian Exporters about the markets in their sphere of activity. They should be in close touch with the various Export Promotion Councils and help them with advice and suggestions regarding their activities especially with reference to the markets they are concerned with. They should show greater initiative in the discharge of their functions and duties, which is so essential to Export Promotion.

The persons selected for appointment to the posts of Trade Commissioners should be given thorough training in trade matters. They should have good knowledge of the produce of India, her manufactures, imports and exports. We would reiterate our suggestion, which we have made on several occasions in the past, that the functions of Trade Commissioners would be discharged in a better manner if the personnel for such offices is drawn from persons with necessary background and practical experience in the sphere of trade, commerce and industry.

(c) As we have already stated, there was hitherto a tendency on the part of Indian traders to concentrate more on the home market than on the export markets. Recently, however, the traders are becoming more and more export-minded. The export consciousness of the traders can be increased by impressing on them, through Trade Associations and by other suitable means, the need for taking greater interest in export trade, by

bringing to their notice potentialities of export markets and by giving them necessary incentives. The agency of the Export Promotion Councils can be utilised in creating greater export-consciousness.

*Q. 7. Publicity in respect of Exports:*

(a) *To what extent has participation in exhibitions and the opening of show-rooms contributed to promotion of exports?*

*What further measures should be adopted to make these exhibitions and show-rooms more effective and useful?*

*What other additional steps should be taken to advertise our goods and place them on new markets?*

*To what extent have trade delegations been successful in increasing our exports to existing markets and finding out new markets?*

*What measures in addition to or in substitution of trade delegations are called for?*

(b) *Is there need and scope for setting up an Indian counterpart of British Export Trade Research Organisation (BETRO) or Japan Export Trade Recovery Organisation (JETRO)?*

(c) *What scope is there for improving trade information and publicity through brochures, directories, etc.? What would be the suitable agency for undertaking such publications?*

(a) As we have already stated, our increasing participation in the International Exhibitions and Fairs held in the various countries and the display of our export products in the show-rooms and emporia attached to our Trade Missions abroad have served to bring our export products prominently to the notice of the trading and the consuming public in the foreign lands. The Exhibition Branch attached to the Ministry of Commerce & Industry looks after the work in connection with the participation in such exhibitions and fairs. It should move expeditiously and secure adequate space for putting up pavilions for display of our export products sufficiently in time and notify the same to the industry and trade, so that prospective participants will get adequate time to complete all the formalities in connection with such participation. Publicity literature giving illustrations and descriptions of the articles exported should accompany samples of the goods to be displayed in the International Exhibitions and Fairs. As already suggested, arrangements for explaining the nature of the products displayed, their composition and pattern, their uses, etc. to the visitors to the exhibitions and fairs should also be provided.

Apart from participation in International Fairs and Exhibitions and opening of show-rooms and emporia in the offices of our Trade Representatives abroad, cinema slides exhibited in the foreign lands will be another effective form of visual publicity. Besides, our goods should be advertised in local papers

and trade journals, more particularly those which are run in local languages. Mobile exhibitions will also be an effective medium of publicity to our products in the foreign countries. Our Trade Representatives in the different countries should render all possible help to our traders in giving publicity to our export products in all these various ways.

It is difficult to assess precisely the effect of the exchange of Trade Missions and Missions between our country and the other countries on our export trade and to say exactly whether such Delegations and Missions have contributed to an increase in our export trade. It must, however, be noted that exchange of Trade Delegations and Missions as between our country and the other countries has potentiality of developing the International trade, for it provides the visiting country and the country visited an opportunity to know each other's requirements and each other's products. Trade Missions and Delegations have also a psychological effect, inasmuch as they serve to bring about better understanding and close relationship between the two countries. The Government of our country have recently invited Trade Delegations from a number of countries. It is also sending similar Delegations to the various countries. Continuance of exchange of Trade Missions and Delegations is greatly desirable, as it helps not only to maintain the level of export trade but also to expand it. One point which requires to be stressed is that follow-up action is very important in obtaining good results from the exchange of Trade Delegations and Missions. It is not sufficient merely to make contacts; what is essential is that immediate action must be taken to make use of the new contacts and to conclude deals with the merchants in the countries whose Missions and Delegations visited this country or which were visited by Missions and Delegations from this country. A brief report on the work of the Delegations making special mention of the prospects for our export products in the countries visited should be immediately prepared and circulated to the Trade Bodies concerned, so as to enable the trade to take immediate necessary action.

(b) The British Export Trade Research Organization and the Japan Export Trade Recovery Organization have been doing useful work in connection with Export Promotion of the respective countries. They have specialised in market surveys and carry on such surveys and researches in the different export markets in great detail. They also undertake publicity drive in respect of various export products in the different foreign countries. They carry on research on a continuous basis and

study the prospects of developing new markets for export products and introducing new items in the export trade of their countries. Some of the functions of the BETRO and JETRO are carried on by the Export Promotion Councils set up in our country. Such Councils are, however, concerned with specific commodities and the establishment of an organization on the lines of the BETRO and JETRO will be desirable from the point of view of developing exports of other commodities for which Export Promotion Councils are not in existence.

(c) At present, the Director-General of Commercial Intelligence & Statistics is entrusted with the work of collection and dissemination of trade information. The Export Promotion Cell whose establishment we have suggested will be a suitable agency for undertaking this work. It should collate trade information and disseminate the same in the form of Brochures from time to time.

*Q. 8. Simplification of Commercial Transactions and Facilities before Shipment of Goods:*

- (a) *Is there need for creating a specialised organisation for reporting on the status and creditworthiness of exporters from India?*
- (b) *What measures should be adopted so that disputes between exporters and foreign buyers can be minimised and disputes, if any, can be solved? What difficulties are likely to arise in making inclusion of arbitration clauses compulsory in all contracts?*
- (c) *What are the usual types of disputes between the exporters and foreign buyers?*
- (d) *Will pre-shipment inspection reduce disputes, and if so, what measures should be adopted in this respect generally and in respect of individual commodities?*
- (e) *What quality standards are generally prevalent in India regarding various commodities and how far do these differ from standards in buyers' countries? Are there any international standards recognised by all countries?*
- (f) *What measures can be adopted to ensure that the prescribed standards are observed by the exporters?*
- (g) *Should standard contract forms be drawn up for different commodities?*
- (h) *Would it be advisable to register export firms?*

(a) In our opinion, creation of a specialised organization for reporting on the status and creditworthiness of exporters would not be feasible. The question of status and creditworthiness would arise mostly in the case of persons or firms entering the export trade for the first time; as far as established firms are concerned, the question of status and creditworthiness will not arise, as such exporters would inspire confidence in the foreign importers, as a result of long trade contacts with them.

Even in the case of new export firms, in the ultimate analysis, the status and creditworthiness of the firms will have to be ascertained by the special organisation only after getting bank references from such firms. Thus, the establishment of a special organisation will be redundant.

(b) The occasions for disputes between Indian exporters and foreign buyers will be minimised, if the exporters are made to pay particular attention to the quality and standard of the goods they export and to see that the goods exported conform to the samples approved by the foreign buyers or to the exact specifications required by the foreign buyers, and the goods are exported before the delivery date. The Pre-inspection Scheme of exported goods on a voluntary basis adopted in connection with exports of cotton textiles will also ensure export of quality goods and reduce the occasions for disputes on the score. The Cotton Textiles Export Promotion Council has set up a Complaints Committee of its own to enquire into and investigate the complaints from the foreign buyers and the Indian exporters. The existence of such a Complaints Committee also serves to keep parties concerned on their vigil.

Arbitration is one of the most suitable means for settlement of commercial disputes. It is, however, pointed out that the experience of Indian exporters in arbitration proceedings is not happy. The main difficulty for them arises from the lack of arrangements for constitution of panels of arbitrators in the various countries, which alone can instil confidence in the minds of Indian exporters about their case being adequately and effectively represented in the arbitration proceedings.

(c) The usual types of disputes between Indian exporters and foreign buyers are: non-fulfilment of the contract, consignment of goods not conforming to the samples or specifications contracted for, short-supply, late delivery and bad packing.

(d) Pre-shipment Inspection would reduce chances of disputes between Indian exporters and foreign buyers. The Cotton Textiles Export Promotion Council is having such pre-inspection scheme. Other Councils should also examine the feasibility of introducing similar Schemes.

(e) The Commodity Boards for different items lay down standards and grades in respect of the commodities with which they are concerned. The Indian Standards Institution has also evolved standards in respect of numerous commodities after consulting the interests concerned. These standards are mostly in conformity with the International standards.

(f) The Pre-inspection Scheme on a voluntary basis, as is in force in respect of cotton textiles, can ensure to a great extent that the prescribed standards are observed by the exporters.

(g) It will be perhaps advantageous to have different contract forms for different commodities depending upon the nature of the commodities concerned. The Standard Contract Forms should be evolved in consultation with the Trade Associations concerned.

(h) In our opinion, there is no need for registration of firms for the purpose of export trade. The object in view, namely, to see that the exporters maintain high business standards in their dealings with foreign importers can be attained in other ways. We have already suggested that the Export Promotion Councils in respect of items for which such Councils are in existence and the Trade Associations concerned in respect of other items should constantly impress on the minds of the exporters in the particular line the need to maintain a high degree of business integrity in their dealings with foreign buyers.

Q. 9. *State Trading:*

*What are your views on the role of the State Trading Corporation for increasing exports?*

It is our considered opinion that State Trading is not conducive to the development of trade. The State is not a suitable agency to undertake trading operations. Keeping a close watch on the stock position of the market, daily arrivals and off-take, moves and countermoves of fellow operators, changes in price trends are all matters which require a personal touch by those who are in charge of the trade. Besides, it calls for a high degree of skill and ability to take prompt decisions and adaptability. These essential qualities cannot be expected to be present in Government officials. They are trained for a different purpose altogether. Their actions and decisions are guided by precedents, rules, regulations, etc., and they are, therefore, not in a position to take quick decisions which are so essential for the successful operation of trading activities. A trading concern has to suffer losses on occasions, particularly in the initial stages of exploration and consolidation. The losses incurred by the State in trading will be a charge on the national exchequer. Incursion of the State into trading activities also eliminates normal trade channels from their avocations. The experience of State trading in other countries and the limited State trading in our own country in the past has been unhappy. The action taken by Government in establishing a State Trad-

ing Corporation for the purpose of trading is an unfortunate one. In terms of the Resolution setting up the Corporation, the Corporation will not only engage itself in foreign trade but also in the sphere of internal trade and that too in respect of any commodities it chooses. The Corporation has already engaged itself in the export of Manganese ore, Iron ore and few other commodities and import of cement. There is no restriction on the Corporation entering any business and this factor is having a dampening effect on the initiative of the private enterprise as there is lurking fear in the minds of the traders that the Corporation might enter their business any time it likes. An assurance from Government to the effect that the State Trading Corporation will carry on trading operations only in respect of certain specified commodities or with only specified countries (it is pertinent to point out that the initial idea of Government in resorting to State trading was to facilitate trading with the countries behind the 'iron curtain') will go a long way in removing this feeling of uncertainty in the minds of the businessmen and to induce them to undertake trade promotional activities.

The case made out by Government for resorting to State Trading through the agency of the State Trading Corporation does not appear to be on strong grounds. Manganese Ore and Iron Ore are two important commodities in respect of which the State Trading Corporation has entered the export trade. The reasons advanced for the entry of the State Trading Corporation in the export of these two ores are, as contained in the Press Note dated the 22nd June 1956, vague and unconvincing. It is not clear as to what Government had in mind by the statement that "the existing trade mechanism is inadequate for meeting the demands of the export trade in ores". If Government meant that there were drawbacks and shortcomings in the working of the trade mechanism, it was but proper that they should have indicated the same to the traders concerned. The trade has, however, on the other hand, claimed that it has not fared badly, allowing for the various handicaps and difficulties under which it had to operate. One of the main handicaps was the transport bottleneck and the other, the port difficulties. In fact, the Press Note dated the 22nd June 1956, referred to above, itself states that "the preoccupations of the control authorities with the equitable distribution of available wagon space amongst mining and trading interests has made it virtually impossible for the limited resources to be used to the maximum advantage or for economical arrangements for transportation of

ores and for their handling at the Ports". What is worth noting, however, is that despite these handicaps and difficulties, the results achieved by the trade in the matter of export of ores must, on all reckonings, be called creditable. The export of manganese ore, for instance, effected by the trade during the year 1953-54 was of the order of 16 lakh tons, which means that the trade, given the necessary transport facilities, could exceed the target of 15 lakh tons fixed for export of manganese ore under the Second Five-Year Plan. As regards iron ore, Government's policy during the First Five-Year Plan period was to conserve the supplies of this ore for pig iron production in the country and there was no export target as such fixed for iron ore under the Plan. Nevertheless, the trade developed export markets and succeeded in exporting nearly 13 lakh tons of this ore in 1953-54 and 1955-56. These achievements of the trade, in the face of the transport and other difficulties experienced by them, should leave no room for doubt as to its capacity to step up exports of these two commodities.

The only reason which seems to have influenced Government's decision to canalise export of ores through the State Trading Corporation is that this has been considered by Government to be a profitable line which the Corporation could take up. It should not, however, be forgotten that Government were already having a good slice of profits made by the export trade in ores in the form of taxation and freight. It is estimated that roughly 24 per cent of the earnings of the manganese ore were going to the State by way of taxes and freight in the case of mines situated near the Ports. This figure will be probably greater in the case of mines situated away from the Ports.

It is officially claimed that the State Trading Corporation has been able to push up exports of ores. This claim is, however, refuted by spokesmen of the mining trade. It is contended by them that the State Trading Corporation has not been able to fulfil its contracts with the U.S.A., France and Japan in the year 1956. It is pointed out by them that while the State Trading Corporation is not able to fulfil the contracts with foreign countries for the supply of the ores according to schedule, the private parties were not in a position to enter into long-term commitments owing to the fact that Government's policy was announced from year to year and not on a long-term basis. It is stated that the trade had repeatedly urged Government to announce a three-year, if not a five-year policy in respect of export of ores, so as to enable the trade to plan the exports on a sufficiently long-term basis. The request of the trade was not

granted. It is further pointed out that when the State Trading Corporation entered the sphere of export trade in ores, Government had promised that the Corporation would supplement and not supplant the private trade. In actual practice, however, the activities of the Corporation have resulted in supplanting the private trade in ores. As a result of the elimination of the private trade from the sphere of export trade in ores and the inability of the State Trading Corporation to fulfil the contracts with the other countries, it is feared that the export trade in ores from this country will receive a set-back.

*Q. 10. Trade Agreements, etc.:*

- (a) *Make an assessment of the utility of Trade Agreements that have been entered into by India with various countries. In what directions do they need to be improved so as to increase their value and effectiveness?*
- (b) *Do you have any concrete cases where the provisions of technical collaboration agreements with foreign parties preclude the export of goods produced in the country? If so, would you recommend a revision in such agreements?*

(a) India has entered into bilateral trade agreements with a number of countries. A study of the statistics of India's trade with these countries during the first 9 months of the year 1956 shows that whereas their exports to this country increased, India's exports to them were more or less static. The Agreements are periodically reviewed or revised. At the time of negotiations for such review or revision, opportunity should be taken to bring to the notice of the Representatives of the other contracting parties the shortfalls in their off-take of the particular commodities and to point out to them the difficulties experienced by Indian exporters in regard to export of those commodities to the countries concerned.

The bilateral Trade Agreements entered into are of a general character just mentioning what would be exchanged between the two countries. This has not resulted in promotion of exports to the desired extent, as it has been found in certain cases that the other contracting parties export more to India than they import from India. Wherever practicable, specific agreements should be concluded for exchange of specific goods of equal values between the two countries. This will ensure that both India and the other contracting party benefit from the Trade Agreement.

It has also been pointed out that where certain countries which are parties to the Trade Agreements with India are paid in convertible foreign exchange for imports into India from

those countries, it so happens that they buy goods from other sources with such foreign exchange instead of from India. It should be seen that such countries buy goods from India upto the stipulated quantities or values, if necessary, by paying them in rupees, the balance being paid in other convertible foreign exchange.

We should try to get more and more manufactured and processed goods available from India included in the Schedule of exports from India appended to the Agreements. Prior consultation with the trade and industry, while entering into Agreements or their renewal, would be greatly desirable.

(b) No such cases have been brought to our notice.

My Committee hope and trust that the Export Promotion Committee will give their careful consideration to the above views and suggestions while formulating their proposals and recommendations in regard to export promotion.

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## APPENDIX 36

### **Questionnaire issued by the Customs Reorganisation Committee**

*Letter dated 23rd September 1957 from Chamber to the Secretary, Customs Reorganisation Committee.*

I am desired by the Committee of the Indian Merchants' Chamber to refer to the Questionnaire issued by the Customs Reorganization Committee and to send hereby their replies to the same.

At the outset, my Committee would like to make a few general observations on the subject-matter covered by the Enquiry. During the last few years, the occasions for complaints regarding Customs difficulties experienced by the trade have increased considerably. There is a general feeling that these difficulties are occasioned, among other things, by some of the provisions of the Sea Customs Act regulating the foreign trade of the country and the procedural formalities thereunder, which have increased considerably over the years both in number and complexity. Some of the requirements and formalities are also such that it is difficult to comply with the same in the day-to-day work connected with imports and exports. These difficulties, to some extent, are accentuated by the rigidity in

administration. There had been, consequently, a general demand for a thorough overhaul of the provisions of the Sea Customs Act and the procedure laid down thereunder. The Committee of this Chamber had themselves suggested on more than one occasion the appointment of an Expert Committee with representatives of the trade, commerce and industry thereon to undertake such a review of the provisions of the Act and the various Rules and Regulations prescribed thereunder and to formulate proposals for reforming the Customs procedure and practice in a manner which would be simple and conducive to the free flow of the foreign trade of the country. My Committee, therefore, welcome the appointment of the Expert Committee and the opportunity given to all concerned to place their views and suggestions before the Committee.

The main Customs difficulties frequently complained of relate to classification and assessment of goods under the Customs Tariff Schedule, delays in completion of assessment proceedings by the Customs Officials, delays in connection with the chemical and analytical tests, insistence on the part of Customs Authorities on frequent analytical tests, sudden changes in classifications of articles and consequent changes in the rates of duty leviable on them without prior notice to the trade, lack of uniformity in the procedures adopted by the Customs Authorities at the different ports and difficulties caused by lack of co-ordination between the Import Trade Control Authorities and the Customs Authorities.

As regards classification and assessment of goods under the Customs Tariff Schedule, the difficulties are mainly caused by the fact that the Customs Officials on several occasions refuse to accept the usual documentary evidence that is produced by the merchants and demand additional documentary evidence which the merchants are not in a position to furnish easily. Sometimes, the Customs Authorities are found to be changing the very basis of classification of articles for the purpose of assessment. The following instance illustrates the avoidable difficulties caused by arbitrary administration in the matter of classification.

Fountain pens of certain well-known and costly brand were imported sometime back as usual into the Port of Bombay. Instead of being classified as "fountain pens" as such, they were treated by the Customs as "an article plated with gold or silver" and charged to the much higher rate of duty applicable to the latter. The party concerned pointed out to the Customs Autho-

rities that, having regard to the end-use of the article, there was no justification whatever for treating the same as an item other than "fountain pen" and assessable to Customs Duty at the higher rate. The contention of the party was, however, not accepted and the party had to have recourse to the court of law to get the Customs decision reversed in its favour.

Another matter in regard to which difficulties are often experienced by the trade is the insistence by the Customs Authorities on frequent analytical tests of articles imported or to be exported. What is worth noting is that analytical tests are frequently insisted upon even in the case of items which are imported/exported regularly by the same importer/exporter. Further, it is observed that there is inordinate delay in the submission of reports of analytical or chemical tests, resulting in a good deal of inconvenience and hardship to the importers/exporters. The exact classification of the goods and the duty leviable thereon cannot be decided in the absence of the results of analytical tests. In the case of seasonal goods particularly, such difficulty is more keenly felt as the traders are likely to be put to financial loss owing to delay in the clearance of goods and the possible fall in the prices of the goods during the intervening period. It is true that importers are allowed to clear the goods when the classification of the commodity is in dispute, on their executing a bond, undertaking to pay the difference in the duty as determined on the basis of the results of the analytical tests. Such guarantees are, however, required to be countersigned by banks for which importers have to deposit large amounts with the banks. This means that considerable amount which would otherwise be available for business purposes, is locked up for a long time. It is, therefore, essential that the reports of the chemical or analytical tests are given by the Customs Authorities in the shortest time possible with a view to eliminating the difficulties experienced by the traders on this score.

Changes in Customs Classification of imported articles have also occasioned considerable difficulties to the trade. Goods which are assessed under a particular classification for a number of years are also affected by such changes. It is reasonable to suggest that when a change in classification is proposed to be made with regard to a particular article, the trade interests concerned should be previously consulted and the change should be announced through a Public Notice for the guidance and information of importers sufficiently in advance so as to allow them adequate time for making necessary adjustments.

One of the points which the Enquiry Committee will have to prominently consider is that relating to the question of uniformity in the Customs procedure at the different Ports. Instances have been brought to our notice of lack of uniformity in the procedure followed by the Custom Houses at the different Ports resulting in the same article being assessed to duty at different rates at different ports. Sometimes, it is found that an article is allowed importation at one port while it is not allowed at the other port. The lack of uniformity in Customs procedure adopted by the different Customs Authorities naturally results in discrimination among the importers at the various ports. There is, therefore, imperative need for steps being taken to bring about maximum amount of uniformity in the procedural aspects as between the Customs Authorities at different ports.

A continuing difficulty in the administrative sphere is the lack of adequate co-ordination between the Customs Authorities on the one hand and the Import Trade Control Authorities on the other. The difficulty regarding ascertaining in time the exact ITC Classification of articles still continues. In order to get over this difficulty, we have often suggested in the past that a machinery composed of officials drawn from both the Departments should be set up to determine classifications of articles and to advise the importers concerned promptly. We would urge consideration of the feasibility of accepting this suggestion. My Committee would further suggest that the classification determined by this machinery should be referred to the Central Board of Revenue for their approval. When the same is approved, the Central Board of Revenue should announce the classification by means of Notification for the information and guidance of importers at all the port centres. We would also suggest that the classification and nomenclature should be as detailed as possible, so that the traders concerned would be in a position to know the exact classification with regard to the items with which they are concerned.

The above discussion about the various difficulties underlines the need for taking steps to avoid administrative delays at the different stages of the Customs formalities, to bring about uniformity in the Customs procedure adopted by the Customs Authorities at the different Ports and to simplify the procedural formalities connected with importation and exportation of articles in a manner which would minimise the hardship and inconvenience experienced in this regard at present and to assist

the free flow of the overseas trade of the country by removing the obstacles caused therein on account of the observance of the rigid and difficult procedures. The discussion also points to the clear need for energising the machinery in charge of the administration of the Customs law at the different centres and for a reorientation in their outlook, which, while safeguarding Government revenue and other interests of the State, takes due note of the genuine difficulties experienced by the trade in the course of the observance of the Customs procedures and formalities. The Customs staff should make it a point to dispose of their work expeditiously and promptly. In our opinion, institution of supervisory arrangements on the work of the staff at the lower stages would greatly facilitate expeditious disposal.

There is one more point to which my Committee would like to refer and that is regarding the provisions concerning the appellate machinery under the Sea Customs Act. As the Act stands at present, it only provides for departmental appeal and there is no provision for appeals before an independent appellate authority. The appeal as provided for in the Act is only in the nature of departmental review and cannot claim the merit of an appeal to an independent authority. The Committee of this Chamber have, therefore, often suggested in the past that the provisions in the Sea Customs Act in this regard should be amended with a view to setting up an independent appellate authority to hear appeals from the orders passed by the Customs Officials just on the lines of the Income-tax Tribunal. Such a course will not only inspire confidence in the traders but will also ensure greater care and circumspection in the administration while passing orders and taking decisions and thereby minimise the element of arbitrariness in their decisions. It is significant to point out that even the Taxation Enquiry Commission saw the force underlying this suggestion. My Committee would reiterate this suggestion and urge that, to start with, a Tribunal independent of the Ministry of Finance, as recommended by the Taxation Enquiry Commission, should be set up at an early date to decide revision petitions. The Committee would further suggest that the Tribunal should be under the administrative control of the Law Ministry as in the case of the Income-tax Tribunal.

With these general observations, my Committee would proceed to answer the various questions in the Questionnaire *seriatim*:

## SECTION I

## PROCEDURE AFFECTING VESSELS IN PORT AND STEAMER AGENTS—SEA CUSTOMS

*Q. 4. Import General Manifest:*

*What difficulties, if any, have you experienced in*

- (i) *observing the time-limit laid down for the lodging of the Import General Manifest with Customs,*
- (ii) *lodging the manifest under the "prior entry" system,*
- (iii) *furnishing the prescribed particulars in the manifest,*
- (iv) *amending the particulars in the manifest when necessary,*
- (v) *furnishing the Customs with any other documents in connection with the manifest,*
- (vi) *accounting for the cargo as shown in the manifest?*

(i) Steamship companies are required under the provisions of the Sea Customs Act to lodge the Import General Manifest with the Customs within 24 hours of the arrival of the ship. Sometimes steamship companies are not in a position of the comply with this requirement in this prescribed period. The ship may be held up in the stream for want of berth or for discharge of ammunitions or other dangerous cargoes or for some other reasons. On such occasions, the steamship agents have to collect the manifest from the vessel in stream. Sometimes there are difficulties of getting launches immediately to reach the vessel and consequently the steamship companies find it difficult to lodge the Import General Manifest with the Customs within 24 hours of the arrival of the ship. It is, therefore, suggested that the period for lodging the Import General Manifest should be reasonably extended when the steamship has to remain in stream under the above or similar circumstances. We would also suggest that the intervening holidays should be excluded for the purpose of computing the period allowed for the lodging of Import General Manifest.

It has been pointed out to us that the Import General Manifest is not accepted by the Customs unless the same is accompanied by the Stores List prepared by the master of the ship and countersigned by the Customs boarding officer. The boarding officer sometimes delays boarding the vessel and the production of the Import General Manifest is, consequently, delayed and this entails delay in the completion of the Bills of Entry and taking delivery of the cargo. It is, therefore, sug-

gested that, since the Stores List has no direct relation to the Import General Manifest, the latter should be accepted by the Customs without insisting on the simultaneous production of the Stores List.

(ii) We understand that formerly the Customs used to accept "prior entries" free of charge. Now, however, only the first "prior entry" is made free of charge, while supplementary "prior entries" are charged. We would urge restoration of the previous practice whereunder all "prior entries" were free of charge.

(iv) Sometimes it is necessary to amend the particulars in the Manifest. It is, however, necessary to ensure that such amendments are passed on by the Customs to the Port Trust authorities expeditiously. It has been pointed out to us that such amendments are not passed on by the Customs authorities promptly. This naturally delays the commencement of the work of clearance of consignments.

(vi) We are informed that the Customs very often ask the shipping companies to account for the cargoes as shown in the manifest after a long time which sometimes extends to 3 to 9 years from the date of the arrival of the ship. It is obviously impossible for shipping companies to account for all the cargoes after a lapse of such a long time and they have unnecessarily to pay penalty in respect of cargoes not accounted for. It is, therefore, suggested that the Customs should not call upon the Steamship companies to account for the cargoes after a period of 3 years from the date of the arrival of the ship.

**Q. 7. Ship's stores:**

*What are your difficulties, if any, in regard to the Customs treatment of ship's stores?*

When a vessel reverts to coastal trade from foreign trade, the Customs demand duty on ship's stores. It has been pointed out to us that the demand for payment of duty on ship's stores is sometimes made after a very long time ranging from 3 to 7 years from the reversion of the ship to coastal trade. Such inordinate delay makes it difficult for shipowners to verify and obtain 'set-off' in respect of Stores of Indian origin. We would, therefore, suggest that a reasonable time-limit should be fixed within which the Customs should demand duty on ships' stores when the ship reverts to coastal trade from the foreign trade.

## SECTION II

## IMPORT: CARGO—APPRAISEMENT—GENERAL

*Q. 9. Form of Bill of Entry/Import Application:*

- (i) *Have you any suggestions to make regarding*
  - (a) *improvement of the form which has been prescribed for the "Bill of Entry for Home Consumption/Bond" or the "Import Application", and*
  - (b) *the number of copies of the form which are required to be filed?*
- (ii) *What difficulties, if any, have you felt in furnishing the prescribed particulars in a Bill of Entry/Import Application?*

(i) In our opinion, the form of the Bill of Entry which is in force at present requires only slight modification. The form contains a column entitled "description". The heading of this column should be enlarged into "description of goods" as that would make it clear that what is asked for under that column is only the description of goods and nothing else.

(ii) Difficulties are experienced in furnishing the particulars in the Bills of Entry. The small Bill of Entry contains 6 lines and bigger one 17 lines. As the particulars to be given in the Bills of Entry have to conform to the particulars appearing in the relevant invoices, whenever the items mentioned in the invoices run into a large number, practical difficulties are experienced in mentioning all of them in the space provided for that purpose in the Bills of Entry. It is, therefore, suggested that in such cases, the importers should be allowed to attach a copy of the relevant invoice to the Bill of Entry with a remark in the relevant column to that effect.

*Q. 10. "Noting" of Bill of Entry in Import Department:*

- (i) *Where a Bill of Entry is "noted" in the Import Department without any objections being raised by the "noter", what, in your experience, is the minimum/maximum time normally taken in "noting"?*
- (ii) *If, in your view, the time taken for "noting" in such cases is excessive, what do you think the time allowance should be, and what causes the delays which occur?*
- (iii) *What is the nature of the objections normally raised at the "noting" stage? Which of them is, in your view, unimportant or immaterial and why?*
- (iv) *Which prescribed processes, if any (e.g. the entry of the Import Trade Control licence number in the Import General Manifest) are, in your opinion, superfluous at that stage? Why do you consider them unnecessary?*

(i) The minimum time taken for noting the Bill of Entry, according to our information, is 4 hours while the maximum time taken sometimes extends to a day or two.

(ii) There is a great scope for reducing the time taken by the noters in completing the noting of the Bills of Entry. The reduction in the time can be effected in the following manner:

- (a) the need for expedition and promptness in the disposal of Bills of Entry should be impressed on the staff concerned. The adequacy of the present strength of the staff in the context of the volume of work to be handled may be examined and, if necessary, measures may be taken to strengthen the same;
- (b) provision should be made for some standing emergency staff in addition to the regular staff which can be drafted for handling extra work that may arise on occasions; and
- (c) it has been pointed out to us that Bills of Entry are not accepted after 4-30 p.m. for noting purposes. If the practice of accepting Bills of Entry even after 4-30 p.m. is started that would help the noting staff to attend to such Bills of Entry immediately on the commencement of the working hours on the next day, when in the earlier hours there is comparatively less work.

(iii) Objections are raised at the noting stage even on the ground of slight variations between the description as appearing in the manifest and that in the Bills of Entry. For instance, the manifest describes the various items of laboratory chemicals under the general heading "laboratory chemicals". In the Bills of Entry the various items falling under this group are mentioned. The same is the case with regard to the import of items coming under the heading "toilet requisites". The Customs staff object to the variation, even if such variation is without any significance, between the description as appearing in the manifest and in the Bills of Entry.

It must be noted that this variation is bound to be there in view of the fact that the parties preparing the manifests and the Bills of Entry are different. The manifests are prepared by the Steamship Companies who are not expected to be thoroughly conversant with the trade requirements. At any rate, there is no point in penalising the importers for the lack of detailed description appearing in the manifests, as they have no control

over the authorities who prepare the manifests. Instructions should, therefore, be issued to the noters to the effect that they should exercise their discretion and if the variation in the description as appearing in the manifests and the Bills of Entry is not material and is not such that the goods to be imported are likely to be quite different from those mentioned in the manifests, they should not hold up the noting of the Bills of Entry.

*Q. 11. Appraising Department—Lay-out—Working hours:*

*Have you any steps to suggest regarding*

- (i) *the improvement of the physical lay-out of the Appraising Department in the Custom Houses,*
- (ii) *the working hours of the Department, and*
- (iii) *arrangements for working under the system of overtime fees?*

In the Appraising Department there are various Sections through which the importers or their agents have to pass with their documents. The physical lay-out of the Appraising Department should be such as would facilitate easy access to the importers or their agents from one section to another.

Where Bills of Entry would, in the opinion of the Principal Appraiser concerned, require longer time for scrutiny even after the examination of goods is over, arrangements should be made for completion of such Bills of Entry on payment of overtime fees.

*Q. 12. Interviews:*

*Have you anything to suggest regarding arrangements for interviews with officers of the Appraising Department?*

It has been pointed out to us that sometimes Appraisers are not available although they have given a particular time to a particular party. It may be that the Appraisers are not on the spot as they may be called by their higher officers or have gone out for office work. On such occasions, when the party or his agent meets the Appraisers after his return the latter should make it a point to interview the party immediately or at any other time mutually agreed upon during the same day.

*Q. 13. Distribution and movement of Bills of Entry/Import Applications, reports, etc.:*

- (i) *What defects, if any, have you noticed in the arrangements*

- (a) *for the distribution of the Bills of Entry/Import Applications among the Appraisers/assessing officers concerned, on receipt into the Appraising Department after "noting", and*

(b) for the movement of the Bills of Entry/Import Applications, and the reports, etc. in relation thereto, from one section to another in the Department, and for the return of the Bill of Entry/Import Application to the importer's agent?

(ii) If you think it is possible to eliminate one or the other stages through which the Bill of Entry/Import Application moves, or to postpone it till after the clearance of the goods, please make your suggestions in this regard.

(i) The movement of Bills of Entry and other documents from one section to another in the Customs Department should be such as to ensure that there is no avoidable delay in such movement.

(ii) Whenever any change is to be effected in the original Bill of Entry, the importer concerned is required to pay amendment fee. The fee is to be paid in the Cash Department and receipt thereof obtained. Until the payment receipt is produced, further stages of the Customs formalities in connection with the Bill of Entry are held up. We feel that this delay can be avoided if the amendment fee which is of nominal value is collected at the time of payment of Customs duty, a remark to that effect being made on the Bill of Entry.

*Q. 14. Time taken for completion of Bills of Entry/Import Applications in undisputed cases:*

(i) If no queries of any kind are raised by the Appraiser/assessing officer concerned in connection with the Bill of Entry/Import Application, what, within your experience, is the minimum/maximum time normally taken in

- (a) obtaining an order from the Appraiser/assessing officer for examination, if such order is given prior to assessment,
- (b) completion of the Bill of Entry/Import Application by the Appraiser/assessing officer, if the "second appraisement" ("second check") system is employed, and
- (c) checking, registration and audit of import licences?

(ii) If in your view the time taken for the processes (a) or (b) or (c) above in such cases, is excessive, what do you think should be the time in each case, and what causes the delays which occur?

(a) We understand that the minimum time taken for obtaining an order from the Appraiser/assessing officer for examination is 2 days and the maximum is 4 days. In the case of machinery items the maximum time taken extends even to a week.

(b) The minimum time taken for completion of the Bills of Entry/Import Application by the Appraiser/assessing officer, if the "second appraisement" system is employed, is 3 days, the maximum time required is 7 days. In certain cases the

Bills of Entry are understood to be delayed for an indefinite period.

(c) The minimum time taken for checking, registration and audit of import licences is 2 days. Whenever an importer holds more licences the time taken for this purpose is 3 to 4 days.

(ii) There is need and scope for reducing the time taken for verification and checking of the different documents as mentioned above and steps should be taken in that direction.

*Q. 15. "Second Appraisement" system:*

*If you favour a freer use of the "second appraisement" system, what are your suggestions in this regard?*

According to our information, the percentage of Bills of Entry which are passed on the basis of "Second Appraisement" system is not substantially large in the Bombay Port. We feel that this system can be applied on an increasing scale, which, it is pointed out, will facilitate quick clearance of goods from the docks and minimise delays.

*Q. 16. Bills of Entry/Import Applications requiring attention of more than one Appraiser/assessing officer:*

*Delays are reported to occur because a Bill of Entry/Import Application sometimes requires the attention of more than one Appraiser/assessing officer. Have you any alternative method to suggest, consistent with the need for satisfactory appraisement which would minimise these delays?*

A Bill of Entry is dealt with by the appraiser who is concerned with the commodity, which constitutes a component of the imported consignment, carrying the highest rate of import duty. The appraiser, however, is authorized to deal with all the items in the Bill of Entry so long as each of the items does not exceed Rs. 1,000 in value. If an item is valued at more than this limit, the Bill of Entry has to be sent to another appraiser concerned. Under the present circumstances, due to import trade control regulations, there are a number of items which have to be imported in small values and the occasions for the passing of one Bill of Entry being done by more than one appraiser are many. It is, therefore, suggested that the limit of Rs. 1,000 as above should be raised to Rs. 2,500 so that the delay caused by the movement of the Bill of Entry from one appraiser to another is reduced to that extent.

*Q. 17. Transfers and leave of Appraisers/assessing officers—Arrangement for substitutes:*

*What difficulties, if any, have you experienced in connection with Appraisers/assessing officers concerned being transferred, or proceeding on leave before completion of Bills of Entry/Import Applications with which they have been dealing?*

Whenever there are Bills of Entry which are left incomplete with the appraiser when he is transferred or goes on leave, the other appraiser who comes in his place has necessarily to start afresh and the time taken by the earlier appraiser is wasted. It is, therefore, suggested that whenever it is decided to transfer an appraiser or sanction his leave, it should be seen to it that, as far as possible, the Bills of Entry with him are completed. Moreover, when a substitute is brought in the place of an appraiser who is transferred or goes on leave, it is necessary to see that the former is thoroughly conversant with the nature of work involved in the case of the particular item.

*Q. 18. Priorities for Bills of Entry/Import Applications:*

- (i) *Have you anything to suggest regarding the order of priority in which the Appraiser/assessing officer concerned handles Bills of Entry/Import Applications at various stages, e.g. (a) before examination, (b) after examination, and (c) after registration and audit of licences?*
- (ii) *Do you think any priorities should be accorded to Bills of Entry/Import Applications on the basis of (a) the size, (b) the urgency, etc. of consignments, and if so, how would you fix them?*

In our opinion, it is necessary to give higher priority in the completion of customs formalities in the case of consignments containing perishable goods. Similar facility should also be extended to consignments containing medicinal goods and seasonal goods.

*Q. 19. Appraisement-Documents:*

- (i) *Since scrutiny of certain stereotyped papers and documents (e.g. descriptive literature in respect of machinery, bank drafts, licence applications, etc.) is frequently necessary for proper verification in the Appraising Department of the declarations made in the Bill of Entry/Import Application, do you think it is possible to anticipate the demand for such papers and documents, and reduce thereby the delay in their production, by presenting them with the Bill of Entry/Import Application when it is first lodged in the Appraising Department? If so, please suggest how this can be done.*
- (ii) *Have you any steps to suggest to improve the Customs procedure for calling for documents/information at the time of presentation of the Bill of Entry/Import Application in the Appraising Department?*

As far as the documents which have direct relevance to the proper verification of the Bills of Entry in question are concerned and which are normally required for such verification, the importers generally anticipate the demand for such documents. It is, however, not possible for them to anticipate the demand for other documents which may not be quite relevant to this purpose or which may not have been required on earlier occasions. Importers are understood to be greatly inconvenienced and harassed as a result of the appraisers demanding documents which cannot be easily and quickly produced. In case some additional documents and information over and above those produced by the importers are required, the importers should be duly informed of all the requirements at one and the same time.

*Q. 20. Staffing of the Appraising Department:*

*Do you think the Appraising Department is inadequately staffed, or that its organization is defective in efficiency or other respects? Please give reasons for, or examples to illustrate, your answer, and your suggestions to remedy the deficiencies.*

We are not in a position to say exactly whether the staff employed in the Appraising Department at present is adequate or not. We, however, concede the need to examine the question of the adequacy or otherwise of such staff in the light of recurring and frequent complaints about delays in the Appraising Department.

*Q. 21. Have you any other observations to make on the subject covered by this Section of the Questionnaire?*

We would suggest the advisability of appointing a panel of experts having specialised and technical knowledge in different items and groups of items who can be consulted both by the appraisers and the importers whenever there are occasions of disputes on points of a technical character so that such disputes can be resolved on the spot.

### SECTION III

#### IMPORT/EXPORT: APPRAISEMENT—TARIFF CLASSIFICATION

*Q. 22. Tariff structure:*

*Have you any representations to make regarding the difficulties, if any, caused by the existing structure of the Indian Customs Tariff (e.g. by overlapping definitions) in classifying goods for assessment to (i) import duty, and (ii) export duty?*

As regards import tariff, difficulties in determining the classifications of goods for assessment purposes arise from the following three factors:

- (i) The wording of some of the tariff items are not as simple and specific as required with the result that they lend themselves to varying interpretations, occasioning disputes between the importers on the one hand and the Customs authorities on the other.
- (ii) Some of the footnotes which appear in the tariff schedules also suffer from lack of clarity leading to disputes between the importers and the Customs authorities.
- (iii) There are difficulties caused by some of the articles capable of being classified under more than one item. For instance, items like electrical appliances, iron and steel manufactures, items of provisions and medicines as also certain chemicals are classifiable under more than one item. The same is the case with some of the items of machinery and components.

In view of the above difficulties, it is reasonable to suggest that an early opportunity should be taken to reclassify the Tariff Schedule in a manner which would remove the present ambiguities and lack of clarity in respect of some of the items. The trade interests concerned should be given sufficient opportunity to express their views and suggestions in the matter.

*Q. 23. Departmental procedure:*

*Have you any comments to make on the procedure adopted by Appraisers to determine tariff classifications of goods?*

There does not appear to be any set procedure laid down by the Customs Department for classification of goods by appraisers. The procedure is left more or less to the discretion of the appraisers and some of them are found to be classifying some of the goods under items which carry the highest rate of customs duty, without regard for the normal trade usage and practice or their end-uses. We would suggest that the normal trade usages and end-uses of the goods should be borne in mind while determining classifications of imported articles.

*Q. 24. Inconsistencies in tariff classifications:*

*Have you any suggestions to make to eliminate inconsistencies and lack of uniformity in tariff classifications either at the same port/land Customs station or between different ports/land Customs stations?*

Complaints are occasionally received about lack of uniformity in tariff classification and the rate of customs duty charged

at the various ports, the Customs authorities at these ports holding different views regarding classification of the items concerned. Instances were brought to our notice in the past where an item imported by an importing house in one Port was assessed to customs duty under one classification whereas the same item imported by the same importing house in another port was classified under different item of the customs tariff schedule and assessed to duty at a different rate. Lack of uniformity as between the various ports in regard to the classification and assessment of duty as between the customs authorities in various ports naturally results in discrimination between importers at one port and those at the other. Steps should be taken to bring about uniformity in the customs procedure at the various ports in this regard. Towards that end, we would suggest that some machinery to bring about co-ordination between the various ports in the matter of Customs procedure should be set up.

Whenever tariff classification of any item is changed, the same should be duly brought to the notice of the importers at the different port-centres by issuing a Public Notice. All consignments which are imported under firm commitments entered into prior to the date of such Public Notice should be allowed clearance at the rates of customs duty existing before the issue of the notice.

*Q. 25. Changes in established tariff classifications:*

*What hardship, if any, have you experienced from changes made by assessing officers in well-established and long-accepted tariff classifications?*

Whenever an assessing officer happens to question the classification of any particular item which has been in vogue for a number of years, he should not enforce his decision without getting his viewpoint confirmed by the higher authorities. In case his point is upheld by the higher authorities, sufficient notice should be given to the trade before enforcing the decision and changing the classification of the article concerned. The consignments imported already or for which orders were placed prior to the change in classification, should be allowed clearance on the basis of the classification obtaining previously.

*Q. 26. Notice of changes:*

*Have you experienced any difficulties from a lack or inadequacy of the notice given to the public, of intended changes in tariff classifications? What do you consider should be the minimum notice in such cases?*

Considerable difficulties are being experienced by the trade as a result of lack of or inadequacy of notice regarding changes in customs procedure. Difficulties are all the greater when these changes are sought to be given retrospective effect. We would, in this connection, refer to the decision which was taken by the Bombay Customs authorities sometime back in regard to acceptance of locally prepared invoices. A notice was issued by the Bombay Custom House on the 17th December 1956 stating that the existing procedure of certification and acceptance of locally prepared invoices would be confined to goods under O.G.L. Certification of invoices, other than those for goods under O.G.L. were, in terms of the notice, to be discontinued in respect of goods shipped on or after the 6th November 1956. The procedure which was in vogue for several years past in regard to the certification and acceptance of locally prepared invoices was thus abruptly changed and it was decided to enforce this change with retrospective effect. Such abrupt changes, particularly when they are given retrospective effect, cause avoidable hardship to the trade. We would, therefore, suggest that whenever any change is made in the procedure which has been in force for a long time, not only that no retrospective effect should be given to the change but sufficient notice about it should be given to the trade.

*Q. 27. Importer's liability for tariff classification:*

*Have you any comments to make on the practice stated to be existing in certain Custom Houses requiring importers not merely to describe goods on the Bills of Entry/Import Applications as in the invoice, but also to declare, and accept liability for, the tariff classification under which the article would fall?*

Section 29 of the Sea Customs Act, 1878, provides that on the importation into or exportation from any customs port of any goods, the owner of such goods shall state the real value, quantity and description of the goods in his Bill of Entry or Shipping Bill, as the case may be. In our opinion, the importers may be asked to state the tariff classification of the articles intended to be imported by them in the Bills of Entry. The same should not, however, be treated as in the nature of a declaration. In case any discrepancy through oversight is noticed therein, it should not be penalised. The idea is that importers should assist the Customs Authorities in determining the classification of articles and the rates of customs duty leviable thereon.

Q. 28. *Assessment of mixed goods:*

- (i) *What difficulties, if any, have you had with the implementation of the provisions requiring that mixed goods, that is to say, goods made up of different articles, should be assessed at the highest of the rates applicable to the individual articles?*
- (ii) *Please state your objections, if any, to the legal provisions themselves in this respect.*

Considerable difficulties are experienced by the trade in regard to the assessment of mixed goods. It has been pointed out in this connection that a good deal of discretion rests with the appraisers who are inclined to assess the entire consignments on the basis of the highest rate of duty applicable to a part of the consignment, irrespective of the fact that that part happens to be an insignificant part of the whole consignment. It is reasonable to suggest that the highest rate of duty may be charged only when the value or the proportion of the part chargeable to the highest rate of duty is sufficiently high. In cases where the value of the part or the ingredient is comparatively smaller or negligible, the different parts or the ingredient should be charged to duty on the basis of the rates applicable to them under the tariff schedule. Suitable departmental instructions should be issued in this regard or, if necessary, Section 21 of the Act may be suitably modified.

## SECTION IV

## IMPORT: CARGO—VALUATION FOR ASSESSMENT TO IMPORT DUTY

Q. 31. *Suggestions for alternative definition of "real value";*

*If you have any improved definitions to suggest, please state them with your reasons in support of your suggestion.*

It has been pointed out to us that the prices mentioned in the list of prices of the importers which really shows prices chargeable to the consumers as such are considered by the Customs authorities as equivalent to the wholesale prices for the purpose of Section 30(a) of the Sea Customs Act. This does not appear to be the intention underlying the provision of this section. We would point out that it is necessary to see that post-importation charges other than import duty are not taken into account while computing the wholesale prices for the purposes of Section 30(a). If necessary, the Enquiry Committee may consider the feasibility of modifying the provisions of this section, so as to make it clear that wholesale prices should not include post importation charges other than import duty.

*Q. 32. "Market values"—Principle of adoption for valuation:*

*Have you any criticism to make regarding the principle of adoption of "market value" as a basis of valuation?*

We have no special comments to make except to state that, since, at present, owing to restrictive import policy, a large variety of goods are imported only in limited quantities, there is hardly anything in the nature of regular wholesale markets in respect of a good number of imported goods. The scope, therefore, for assessment of these goods to Customs duty on the basis of market value is greatly reduced. In the result goods are assessed to Customs duty on the basis of real value.

*Q. 34. Determination of market value:*

*What are your objections, if any, to the methods adopted for determination of market values, and of trade discounts for deduction from market values?*

The basis of market value for purposes of Customs Duty should be adopted only when there are sufficiently large imports of the commodity in question at the particular port. It is not proper to adopt this basis in the case of a commodity when its imports are very small or negligible. For instance, we understand that this basis is adopted by the Customs Authorities at Calcutta in respect of art silk yarn, although the imports of this commodity into the Calcutta Port are relatively very small, and there is nothing like a ruling market for the item in that trade centre. Moreover, whenever imports are small, the prices quoted are naturally at a comparatively higher level and if such prices are adopted as the basis for assessment of customs duty, it results in higher amount of duty being paid on the article in question.

*Q. 35. Assessment on market value at certain ports/land Customs stations and not at others:*

*What are the difficulties, if any (e.g. diversion of trade) experienced from the assessment of certain articles on market value at one port/land Customs station but not at another?*

In our opinion, so long as the particular basis of assessment is fixed having regard to all the relevant factors, there is no likelihood of diversion of trade from one port to another even though the bases adopted at the two Ports are different.

*Q. 36. Assessment on "invoice value"—Trade discounts and commission:*

*Have you any suggestions to make regarding the recognition of various kinds of trade discount and commission as admissible items for deduction in the determination of "invoice value" for assessment to import duty?*

We are of the opinion that trade discount and commission allowed according to normal trade practice should be allowed as admissible deductions for the purpose of determining the invoice value for assessment to import duty under Section 30(b).

*Q. 37. Sole agency commission:*

*Have you any criticism to make of the principle, stated to be followed in certain Custom Houses, that a sole agent must be responsible for the direct importation of at least 90 per cent of the agency goods arriving in the country, before he can be given the benefit of a deduction from "invoice value" on account of sole agency commission?*

*Bona fide sole agency commission may be allowed as an admissible item for deduction from invoice value without any condition as to the percentage share in the importation of the item concerned.*

*Q. 38. Assessment on "invoice value"—Special relationship between foreign supplier and importer:*

*With due regard to the need for a basis of Customs valuation which will not confer an unfair advantage on an importer over his competitor in respect of identical goods, or reduce the valuation to a figure which does not represent the true commercial value of the goods at the time of importation, have you any criticism to make of the manner in which "real value" is determined by Customs in cases where the relationship between the foreign manufacturer/supplier and the importer is one of*

- (i) Principal to Principal,
- (ii) Principal to Subsidiary,
- (iii) Principal to Sole Agent?

Where the relationship between the foreign manufacturer/supplier and the importer is one of Principal to Principal, there should ordinarily be no difficulty in accepting the Invoice prices for the purpose of assessment to duty as such prices are likely to represent the correct state of affairs. Where the relationship between the foreign manufacturer/supplier and the importer is one of Principal to Subsidiary or Principal to Sole Agent, here also the invoice prices should ordinarily be accepted. In doubtful cases, however, necessary documentary evidence may be asked from the importer for verifying the correctness of the invoice prices.

*Q. 42. Disputes regarding valuation in bona fide cases:*

*Where there is a dispute between the Customs and the Importer/Exporter about the declared value of the goods, and the bona fides of the Importer/Exporter have not been called into question, Section 32 of the S.C.A. provides for the Customs taking over the goods on payment of the declared value. If you are not satisfied with this provision or with the departmental procedure relating thereto, please state your reasons.*

We have no observations to offer on the provisions of Section 32. We would, however, point out that difficulties are caused in actual implementation of the provision. We are informed that invariably inordinately long time is taken by the Customs Authorities to come to a decision in the matter. This aspect should be looked into and the need for expediting decision in keeping with the spirit of the section should be impressed on the Customs Authorities.

## SECTION V

### IMPORT: REGISTRATION AND AUDIT OF IMPORT TRADE CONTROL LICENCES

*Q. 44. Verification of import licences:*

*What are your difficulties, if any, in processing your Import Trade Control licence through*

- (i) *the Appraiser,*
- (ii) *the Registration Section, and*
- (iii) *the Audit Section?*

We understand that difficulties are mainly experienced by the importers when import licences undergo processing in the Registration Section and the Audit Section. The difficulties are experienced by the dealers during the processing of the licences in these sections.

*Q. 45. Treatment of minor variations from licence particulars:*

- (i) *If you are not satisfied with the treatment accorded by Customs to minor variations between the description/value/period of shipment as ascertained on importation and as shown in the Import Trade Control licence, please say why.*
- (ii) *What delays or difficulties have you experienced from the Customs treatment of minor variations in value/date of shipment as ascertained on importation and as shown in the Import Trade Control licence?*

The description of goods as shown on the import licences is in general terms. Some of the items falling within the scope of the licences may be classified under different items of the Customs Schedule and consequently under different Serial Nos. of the Import Trade Control Schedule. In such cases, the Customs Authorities are reported to be taking a very strict view and disallowing clearance unless and until the importers concerned produce fresh licences to cover the items in dispute. While we are of the opinion that the licences issued by the Import Trade Control Authorities should, as far as possible,

contain detailed description of the articles in question with a view to minimising the occasions for disputes between the customs and the importers, the point we would like to stress is that importers concerned should not be unnecessarily penalised merely on technical grounds, so long as the Customs Authorities are satisfied about their *bona fides* and there is no attempt on their part to get over the ITC Regulations.

Minor variations and descriptions even in the case of machinery items are not allowed by the Customs Authorities. In the case of an item of machinery manufactured by different manufacturers, even if there is a slight variation in designs but the machines are meant for the same use, really speaking, such variation in designs should not be objected to.

*Q. 46. Co-ordination between Customs and Import Trade Control classifications:*

*It is stated that conflicts frequently arise between the Customs classification as determined by the Appraiser, and the description as shown on the Import Trade Control licence. In order to minimise these conflicts, would it, in your view, be an improvement to apply for, and obtain, your licence*

- (i) *separately and specifically for each indent you intend placing abroad, or*
- (ii) *for a number of individual descriptions of articles rather than for a single general trade classification under which all such articles may fall?*

\* [Example of (ii).—If you desire to import various kinds of "toilet requisites", say, plastic and silver soap boxes, tooth-brushes, tooth-paste, soap, shaving cream, and lipstick, would it be a practical proposition to make out the application for the licence, and the licence itself, quoting each of these specific descriptions, instead of only the general description, namely, "toilet requisites"? This example may not be entirely typical, but it illustrates the approach that the Committee has in mind.]

In our view, it would not be advisable to issue import licences separately for each of the items falling under general trade classification. As we have suggested in our reply to an earlier question, the Import Control Authorities should, as far as possible, mention in the licences the particular items which are intended to be imported under the general description. This will obviate the necessity for issue of separate licences for each of the items under the general description. Grant of separate licences for different items will add to the administrative work and cause undue delays.

**Q. 47. Transfer of verification of licences to Import Trade Control authorities:**

*Are you in favour of the suggestion that the two processes of  
(i) assessment,*

*(ii) checking of Import Trade Control licences,*

*should be separated, the former being exclusively assigned to the Appraising Department, and the latter exclusively to the local Import Trade Control authorities? If so, please state your reasons, and having regard to the fact that verification of description must, in most cases, necessarily be based on Customs scrutiny, please say whether you feel sure of a substantial saving of time and trouble resulting from the adoption of this separation.*

Transfer of the work of checking and examination of import licences from the Customs to the Import Trade Control Department would only mean further delay in view of the fact that the licences will also undergo scrutiny at the hands of the Customs Authorities who are entrusted with the administration of the Import Trade Control. Whenever reference to the Import Trade Control Department is found necessary in cases of doubt about the exact Import Trade Control classification of the articles in question, the same should be done expeditiously and the exact ITC position of the articles ascertained from the Import Trade Control Authorities without any delay.

**Q. 48. Debit of value to import licences:**

*Have you any criticism to make of the practice stated to be existing in certain Custom Houses, of debiting the "market value" or "tariff value" or "deduced value", instead of the "invoice value", to the amount shown on Import Trade Control licences?*

Import Licences should, in our opinion, be debited generally on the basis of invoice values and not on the basis of "market value", "tariff value" or "deduced value". If any other basis is adopted, the tendency on the part of the Customs Officials is to fix higher values for the purpose of debiting and this causes a good deal of hardship to the importers, as they sustain a quantitative loss, inasmuch as they are not in a position to import the same quantity as they can, if the invoice values were accepted for the purpose of debiting of import licences. Moreover, importers do not know upto the last moment as to what values would be recognised for the purpose of endorsement on licences. We would, therefore, suggest that import licences should be debited on the basis of the invoice values and, if in any particular case, the Customs Authorities have doubt about the correctness of the invoice values, they should call for the production of the necessary documents for verification of the values indicated in the invoices. Further,

we would suggest that in cases where the actual imports slightly exceed the values of the licences due to *bona fide* reasons, the Customs Authorities should, after satisfying themselves about the *bona fides* of the cases, allow such excess values and not impose penalty on the importers. We would also suggest that in debiting import licences, the trade discount allowed by foreign manufacturers to the importers according to normal trade practice should be allowed to be deducted.

*Q. 49. Any other suggestions:*

*Have you any other procedure to suggest by which difficulties arising out of Customs scrutiny of goods in respect of Import Trade Control licences could be expeditiously resolved?*

It has been pointed out to us, in this connection, that in cases where freight and insurance charges are not available at the time of assessment, the Customs add a notional amount of about 20 per cent on account of these charges while debiting import licences. This amount is very much on the high side and we would suggest that the notional amount should have a definite co-relation to the actual rates of freight and insurance.

## SECTION VI

### IMPORT/EXPORT: ANALYTICAL TESTS

*Q. 50. Adequacy of arrangements for analytical tests:*

*If the existing arrangements made by the Customs Authorities for chemical, physical and other analytical tests are inadequate in your opinion, please state why you think so.*

The existing arrangements with the Customs in regard to chemical, physical and analytical tests are found to be inadequate as the volume of work to be handled has increased because of unduly frequent tests demanded by the Customs Authorities. The composition of foreign trade has also undergone considerable change thereby widening the scope and nature of the chemical, physical and other analytical tests.

The arrangements for the purposes of the above tests are also inadequate in so far as they do not provide tests of some of the articles and the test reports in the case of such articles have to be obtained from some other agencies and this causes delay.

*Q. 51. Nature and frequency of tests:*

*Do you consider the tests now being carried out, unnecessary, or too frequent, or too elaborate, in certain cases? If so, why?*

The frequency of the tests has increased very much. In certain cases, the tests are insisted upon even in cases of items which have been imported or exported regularly by the same party and subjected to test. We would suggest that when an article is imported or exported by an importer or exporter regularly, his imports or exports should be subjected to analytical test only occasionally and the results of the test should be deemed valid for a reasonable period.

*Q. 52. System of registration of tests:*

*Have you any improvements to suggest in the system of registration of these tests in the department concerned in the Custom House, for facility of reference and application of the test results to subsequent consignments of the same articles?*

The present system of registration of test reports is not proper. This system does not facilitate easy reference to the previous test reports. We would suggest the adoption of the system of Card Index which would facilitate easy and quick reference to the test reports whenever necessary.

*Q. 53. Handling of test reports:*

*If there are any delays or defects in the handling of test reports in the department concerned, please make your suggestions for remedying them.*

Frequent complaints are made about the delay in receipt by the parties concerned of the test reports. This delay, it appears, is among other things, caused by the unduly long time taken in their passing from one stage to another.

*Q. 54. Defects or inconsistencies in tests:*

*Have you any representations to make regarding frequent defects or inconsistencies in analytical tests?*

Modern up-to-date testing equipment and material should be provided in the Analytical Laboratory of the Customs and the Laboratory should be adequately staffed with qualified persons having thorough practical training.

*Q. 55. Delays in tests:*

*(i) If serious delays occur in the carrying out of analytical tests, what has been the effect of such delays on your import/export business?*

*(ii) Have you any measures to suggest to reduce these delays effectively?*

Undue delay in test reports adversely affects both the import and the export trade. Particularly on the export side, when a consignment which is ready for export is held up for want of receipt of its test report from the Customs, the exporter

concerned may not be able to ship the goods by a particular steamer with the result that the importer at the other end is not in a position to receive the goods according to the time-schedule. On occasions, this may result in cancellation of the orders in question and the exporter concerned may not be able to secure fresh orders from the foreign importer. In regard to imports also, whenever goods are held up in the Docks till receipt of test reports for a considerable time, the trade is adversely affected. This causes a good deal of hardship and inconvenience when the imported material is required for manufacturing activity. Difficulties are also caused when the imported item consists of seasonal goods, as they are not readily available to meet the seasonal demand. As a result of undue delays in submission of test reports, the importers and exporters may also be involved in financial losses by reason of pilferage, damage or deterioration of the goods.

*Q. 57. Test certificates of recognised agencies:*

*What are your views regarding acceptance by Customs, of test certificates issued by qualified or registered international or private analysts?*

We are of the view that the Customs should accept test reports issued by recognised International analytical agencies.

*Q. 58. Appellate testing authority:*

*Have you any representations to make regarding the provision which has been made by the Customs Department for an appellate authority for re-testing samples in cases of disputes between the importer/exporter and the department?*

The Appellate Testing Authorities should, as far as possible, be located in the Port Centres concerned. The parties concerned should be allowed to submit their own views before such Appellate Testing Authorities.

## SECTION VII

### IMPORT/EXPORT: DETENTION OF GOODS—PROVISIONAL ASSESSMENT—GUARANTEE BONDS

*Q. 60. Causes of detention:*

*What are the different grounds on which, within your experience, goods are detained by Customs?*

The various causes of detention of goods by the Customs are, according to our information, as follows:,

- (i) Default or error on the part of the consignors/consignees.
- (ii) Delay on account of import/export licences having to be verified or corrected or revalidated.
- (iii) Delay on the part of the Customs Authorities in coming to a decision whether a consignment imported under OGL can really be imported without a licence.
- (iv) Classification of imported goods for ordinary Customs Appraisement not involving any analytical or technical test.
- (v) Chemical, technical and other analytical tests.
- (vi) Checking up of the observance of the normal import/export trade control formalities.

*Q. 61. Avoidable detentions:*

*In which particular cases do you consider detentions are avoidable, and why?*

In cases of disputes about classifications between the importers and the Customs, detention can be avoided by the goods being released on personal guarantee being given by the importers to fulfil the necessary requirements following the full scrutiny of the case.

*Q. 62. Unavoidable detentions:*

*Where detention is considered unavoidable by Customs,*

- (i) *can you suggest an appropriate procedure by which (a) the scale, (b) the period of detention, can be minimised without risk to revenue, or to the effective administration of the various controls, as the case may be?*
- (ii) *Would it be convenient if the goods were detained in a bonded warehouse (instead of in the docks/railway station/Custom House) without prejudice to penal or other necessary proceedings, and if so, what should, in your view, be the legal and departmental procedure adopted in this respect?*

(i) In the case of unavoidable detentions, the Customs Authorities should try to come to a decision on the point raised by them and for which the goods are detained, as expeditiously as possible, since the amount of demurrage which the importer/exporter is required to pay goes on increasing with every day that passes. It is true that in some of the detention cases, the importer/exporter concerned is entitled to receive refund wholly or partly of the demurrage charges. But even then that means locking up of a substantial amount for a considerable period and also additional avoidable work to the importer/

exporter occasioned by the claims required to be submitted for the refund.

(ii) It would be convenient if the goods are detained in a bonded warehouse instead of in the docks or railway station or in the Custom House, as the importers/exporters will have to pay only the rental for the warehouse and will be saved a good amount that will otherwise be payable by them by way of demurrage. The goods will also be protected from pilferage, damage or deterioration. Such warehousing should be on a different legal basis from the one on which warehousing in bond is provided for under the Act at present. The rental for warehouses for such purposes should be charged at lower rates than normal.

*Q. 63. Steps to be taken by importer/exporter:*

*What particular steps should, in your view, reasonably be taken by the importer/exporter (in addition to those taken at present) to avoid detention of goods, as far as possible?*

To avoid detention of goods, the importers and the exporters should make it a point to adhere to the observance of the Trade Control Regulations and they should see to it that there is no breach of such regulations. Secondly, they should also keep ready all the relevant documents which are generally required by the Customs Authorities. Any additional documentary evidence that may be required in special circumstances should also be furnished by them as early as possible.

*Q. 64. Release on payment of provisional duty:*

- (i) *Have you any suggestions to make to improve the existing procedure of release of goods on payment of a provisional duty in cases in which final completion of Bills of Entry is not found possible?*
- (ii) *Have you anything to represent about the procedure relating to, or the speed of finalisation of, provisional assessments?*

It has been pointed out to us that in cases where goods are to be released on the basis of provisional assessment, such provisional assessment takes unduly long time. As the idea underlying release of goods on the basis of provisional assessment is to facilitate speedy clearance of consignments, it is but reasonable to suggest that the Customs Officials should act promptly in finalising provisional assessments.

*Q. 65. Release on execution of bonds:*

- (i) *Where the guarantee bond procedure is employed for provisional clearance or shipment of goods (e.g. pending the results of analytical tests, production of licences, etc.), what difficulties, if any, have you experienced in obtaining from the banks the guarantees demanded by the Customs for such bonds?*

- (ii) *What are the difficulties, if any, felt in the actual execution and presentation of these guarantee bonds at the Custom House?*
- (iii) *If these difficulties are of a serious nature, can you suggest an alternative procedure which would cause less hardship, and at the same time effectively safeguard the revenue, or the administration of the various controls, as the case may be?*
- (iv) *What have you to say about action taken for the discharge of bonds when the obligations undertaken thereunder have been fulfilled?*

When the guarantees from the banks which the importers and the exporters have to furnish to the Customs are for long periods, they experience genuine difficulty in getting bank guarantees. The banks are reluctant to give guarantees for unlimited or unduly long periods. Secondly, when the period of the guarantee is long, the amounts which the importers and the exporters have to deposit with the banks concerned also get locked up and they are unable to use them for business purposes. This difficulty is more keenly felt during conditions of tight money markets. We would also suggest that steps should be taken for release of the bond immediately after the importer/exporter has discharged his obligations thereunder. This is all the more necessary in cases where the importer/exporter has furnished more than one bond during a particular time covering imports/exports of more than one consignment.

**Q. 66. Certificates of detention—Demurrage:**

*Have you any suggestions to make regarding*

- (i) *the granting by Customs, of certificates of detention for remission of Port Trust/Railway demurrage,*
- (ii) *the restrictions imposed by the Port Trust Railway on the admissibility of such certificates?*

The Customs Authorities, at present, grant Detention Certificates in the following cases:

- (i) Detention on account of chemical, technical or analytical tests.
- (ii) Detention on account of ascertainment of the fact whether the importer/exporter has committed a breach of the Import/Export Control Regulations and the Customs ultimately come to the conclusion that there was no such breach on the part of the importer/exporter.

The following types of cases are not included in the scope of the Scheme of grant of Detention Certificates:

- (i) Delay in respect of goods imported under OGL where the Customs detain the goods for want of an import licence but eventually release them without the production of a licence.

(ii) Detention for classification of materials for ordinary Customs Appraisement not involving any analytical or technical test.

The *raison-d'être* of the Scheme of issue of Detention Certificates is that an importer should not in fairness be made liable to pay demurrage charges for the delay in the clearance of his goods from the docks occasioned by factors beyond his control. Having regard to this, it does not appear to be either fair or logical to exclude the types of cases referred to above from the scope of the Scheme of Detention Certificates for purposes of claiming or refund of demurrage charges to be paid to the Port Trust. It is true that in the cases of detention occasioned by the Customs formalities other than for ITC formalities, provision is made for issue of a letter by the Customs to the Docks Manager of the Port Trust indicating the reasons for the delay in clearance of the consignments, leaving the importer concerned to take up matter thereafter with the Port Trust Authorities. While it is appreciated that the Customs Authorities do recognise the need for grant of refund or remission of demurrage charges to the importers in such cases, it should be pointed out that the letters issued by the Customs to the Port Trust Authorities do not have the same force as the Detention Certificates issued by them. We would, therefore, suggest that the Scheme of Detention Certificates should cover all cases of detention which are occasioned by factors for which the Customs are responsible and which are beyond the control of the importers.

As the occasions for issue of Detention Certificates have been increasing and as it has become, more or less, a regular feature of the Customs administration, we would suggest the advisability of making a suitable provision regarding the same in the Sea Customs Act itself, so as to provide a firm legal basis therefor.

We are of the opinion that the present Scheme of issue of Detention Certificates should be overhauled in the light of the suggestions made by us as above, in consultation with the Port Trust Authorities. There should also be adequate co-ordination between the Customs on the one hand and the Port Trust on the other in the matter of the implementation of the Scheme. The Customs should expedite the issue of Detention Certificates as the importers have to submit their claims for refund of demurrage charges to the Port Trust Authorities within a prescribed period of two months from the date of payment of such charges and have to furnish all documentary evidence including

the Detention Certificate while submitting their claims for such refunds. We would also suggest that in exceptional cases, where the Customs require longer time for issue of detention certificates, they should recommend to the Port Trust Authorities that the claims of the parties concerned should be entertained, if the parties concerned are not in possession of the Detention Certificates from the Customs within the prescribed period of two months.

### SECTION VIII

#### IMPORT/EXPORT: EXAMINATION AND ASSESSMENT —MISCELLANEOUS

*Q. 68. Examination of goods:*

*Have you any comments to make on*

- (i) *the number of centres for examination of cargo;*
- (ii) *the physical arrangements which have been made for examination at each centre;*
- (iii) *the staffing of the centres;*
- (iv) *the working hours observed at the centres;*
- (v) *the distribution of Bills of Entry/Import Applications/Shipping Bills/Export Applications among Examining/Preventive Officers;*
- (vi) *the handling of these documents by Examining/Preventive Officers and the Supervising (Shed) Appraisers;*
- (vii) *examination by Custom House Appraisers (Instead of by Examining/Preventive Officers) where this becomes necessary;*
- (viii) *the scale or intensity of examination;*
- (ix) *examination outside office hours on payment of overtime fees;*
- (x) *facilities provided for examination outside Customs limits, where these are felt necessary;*
- (xi) *the drawing of samples and their despatch to the Custom House; and*
- (xii) *the disposal of samples?*

We understand that the number of centres for examination of cargo in the Docks is not quite adequate. The inadequacy of the number of Centres for examination seems to be more keenly felt because of the fact that the Customs now insist on carrying out a more detailed and elaborate examination of the cargo. The question of the adequacy or otherwise of the examination centres should be properly enquired into and, if necessary, the number of centres may be suitably increased. The drawing of samples and their despatch to the Custom House should be expedited.

**Q. 69. Short-landing, losses, deterioration of imported goods:**

*What observations, if any, have you to make on the treatment accorded by Customs to*

- (i) packages which have been short-landed;
- (ii) short-packing of goods before shipment;
- (iii) losses (by breakage, pilferage, etc.) of goods, which have occurred
  - (a) before landing,
  - (b) after landing but before clearance;
- (iv) goods which have undergone damage or deterioration
  - (a) before landing,
  - (b) after landing but before clearance?

Where it is a case of short-packing of goods before shipment, full remission of Customs duty should be allowed on short-packed portion of the consignments. There should be no difficulty of allowing out-right remission of duty on the short-packed portion instead of making the party to pay the duty thereon and claim refund of the same subsequently. The fact that Bills of Entry are passed and assessments and payment of duty made before the examination of goods should not come in the way of remission of duty being allowed, since arrangements can be made for amendment of the assessment order and the goods in question reassessed so as to allow the remission of duty on the short-packed portion of the consignment. Further, arrangements should also be made for immediate repayment of the appropriate amount of the duty on the basis of reassessment. Remission of Customs duty should also be allowed on missing goods.

As regards goods which have been damaged or deteriorated, whether before landing or after landing but before clearance, remission of duty should be allowed if the extent of damage or deterioration is such that the goods are rendered unuseable.

**Q. 70. Revision of assessment of goods after clearance:**

*What have been your difficulties, if any, in securing a revision of assessment of your goods after duty has been paid on them and they have been cleared out of Customs charge for home consumption/shipment?*

Although we appreciate that there will arise certain cases where revision of assessment of goods after duty has been paid on them and they have been cleared out of Customs charge for home consumption/shipment would be necessary, there would be practical difficulties in providing for revision in such cases.

*Q. 71. Treatment of re-imported goods:*

- (i) *Have you any suggestions to make regarding the Customs law and departmental procedure relating to the re-importation after export from India, of*
  - (a) *commercial goods of Indian manufacture,*
  - (b) *commercial goods of foreign manufacture,*
  - (c) *goods of Indian manufacture for personal use, and*
  - (d) *goods of foreign manufacture for personal use?*
- (ii) *What difficulties, if any, have you experienced from the Customs treatment of re-imported goods on which export duty had been paid at the time of exportation?*

When commercial goods of Indian manufacture have to be re-imported for reasons such as their being defective or being rejected by the foreign importer, they should not be subjected to import duty on re-importation. Similarly, in the case of re-importation of goods of Indian manufacture exported from India for purposes of processing, no import duty should be levied on the original value of the goods but import duty should be recovered only on the processing values required to be paid by the exporter to the foreign processor. Likewise, when commercial goods of foreign manufacture are exported for reconditioning, import duty should be levied at the time of re-imposition only on reconditioning charges.

In this connection, we would like to invite the attention of the Enquiry Committee to the special difficulty which is experienced by the exporters of exposed films who export the films with the intention of re-importing them afterwards, as a result of the limit of 3 years specified in the proviso to Section 25 of the Sea Customs Act. In terms of this proviso, goods which are exported and re-imported within a period of 3 years from the time of such exportation are alone exempt from import duty. It has been pointed out to us that in the case of exposed films, re-importation takes place after 4 or 5 years from the time of exportation and in terms of the above provision in the Sea Customs Act, they are not eligible for exemption of Customs duty on re-importation. The exposed films which are exported are re-imported as the same are further useable in the country. Exporters have, however, to pay heavy import duty on their re-importation which usually takes place after 3 years. We would, therefore, suggest amendment of the Sea Customs Act, so as to extend the period of 3 years specified in the proviso to Section 25 for the purpose of re-importation of exported articles in the case of special items like exposed films.

*Q. 76. Publicity to Customs rulings and regulations:*

*Have you any suggestions to offer to improve the existing arrangements for giving publicity to Customs rulings and regulations*

- (i) *by means of notices displayed on the Custom House notice boards,*
- (ii) *by circulars to Chambers of Commerce and Trade Associations,*
- (iii) *by books, guides and publications, and*
- (iv) *through Enquiry and Information Offices?*

(i) The notices should be displayed securely on the Custom House Notice Board immediately they are issued indicating the time at which they are so displayed.

(ii) The despatch of Circulars to Chambers of Commerce and Trade Associations should be expedited. The feasibility of introducing an arrangement under which the Circulars and Notices issued by the Customs are circulated to the Chambers of Commerce and Trade Associations situated in the port centres by hand delivery immediately after their issue, should be examined.

(iii) The publication containing Customs Tariff Schedule should be revised every six months incorporating up-to-date information re: rates of duty, etc. Similarly, the Customs Manual which gives details of the Customs Rules and formalities should be revised once every year.

(iv) The Enquiry & Information Department in the Custom House should be strengthened and instructions should be issued to them to give prompt replies to the queries received by them. Every Custom House should also maintain a library where various publications and books containing information about Customs law and procedure are kept for reference.

## SECTION IX

### IMPORT/EXPORT: CHANGES IN RATES OF DUTY & TARIFF VALUES—SHORT & EXCESS LEVIES

*Q. 78. Date of application of changes in rates of duty:*

*What hardship, if any, have you experienced from the implementation of the legal provisions for determining the date for application of changes in rates of (a) import duties; (b) export duties; (c) tariff values?*

Section 37 of the Act states that the rate of duty and tariff valuation applicable to any goods imported shall be the rate and valuation in force on the date on which the Bill of Entry is delivered to the Customs Collector. The main difficulty experienced by the trade as a result of the implementation of

this provision is that when these changes have the effect of raising the rates of Customs duty, goods imported/exported under commitments already entered into before these changes are also subjected to the Customs duty at the new rate. We would suggest that in such cases the feasibility of allowing previous commitments to be honoured on the basis of the previous rates of duty of introducing a suitable system of registration of the commitments along with the necessary documentary evidence with a competent authority to be nominated by Government may be examined. The requirement of the traders in mofussil centres should be duly taken into account in fixing the specified time and nominating the registering authority. In order to avoid chances of unscrupulous traders getting undue advantage of the above concession, the time allowed for registration of prior commitments should not be unduly long.

*Q. 80. Reactions of customers:*

*What are the reactions of your customers to these changes particularly in respect of exports?*

We would point out that in regard to the frequent changes in export duties, the same have tended to dissuade the foreign importers from entering into firm commitments with the exporters in this country. Cases have been brought to our notice of foreign importers recently insisting on inserting a clause in the contract to the effect that the risk of export duties should be on sellers' account. Possibly, this is due to the frequent changes in export duties announced by the Government in the recent past.

*Q. 81. Acceptable alternatives:*

*If you consider that such changes, particularly in respect of exports, should not apply to current commitments made at rates agreed to before the announcement of such changes, what methods would you suggest to prevent undue advantage being taken of such a position by unscrupulous concerns?*

Please see our reply to Question 78.

*Q. 82. Short and excess levies:*

*What are your difficulties, if any, with the legal provisions or departmental procedure relating to*

- (i) *recovery of short levies of Customs duties, and*
- (ii) *refund of excess levies of Customs duties?*

(i) The demand made by the Customs on the traders regarding recovery of short-levies of Customs duties is not specific and does not clearly state the grounds on which the same are made.

It is, therefore, suggested that the demand should be made in a specific manner clearly stating the grounds of the same. If necessary, a form may be prescribed for the purpose.

(ii) In the course of our reply to Question 69, we have suggested that in the case of goods short-packed prior to shipment and in the case of missing goods remission of Customs duty should be allowed on the short-packed portion of the consignment and on the missing goods instead of making the party concerned pay the duty and then claim refund. We would suggest that a specific provision to this effect should be made in the Sea Customs Act. In other cases of refund of Customs duties frequent complaints made by the trade are that inordinate delays occur in grant of such refunds. Steps should be taken for minimising the delays.

## SECTION X

### IMPORT: BONDED WAREHOUSING

**Q. 83. Warehouse accommodation:**

*Is the bonded warehouse accommodation for imported goods provided in your area adequate or not? If it is not adequate, please explain why.*

The Bonded Warehouse accommodation provided in the Bombay Port is inadequate. Importers have to wait for a number of days before they get the warehouse accommodation for which they have applied previously. This is due to the fact that there is a considerable increase in the cargo handled at this Port. The obvious solution would be to construct additional warehouses. How far this could be done will, however, be a matter for consideration, in view of certain difficulties, particularly the limitation of space in the Port Area. Adequate warehousing arrangements should also be made for aircraft cargo.

## SECTION XI

### IMPORTS AND EXPORTS BY POST

**Q. 93. Working arrangements:**

*Have you any improvements to suggest in*

- (i) the physical lay-out of the Postal Appraising Section,*
- (ii) the working hours of the Section,*
- (iii) the size and efficiency of the staff employed in the Section,*
- (iv) the system adopted in the Section for selection of post parcels for release, on the strength of "way bills", without Customs examination or scrutiny of documents,*

- (v) the system adopted for disposal of parcels, where parcels are detained for examination and scrutiny of documents,
- (vi) the method of opening for Customs examination, and repacking, of parcels,
- (vii) the facilities provided for personal clearance of parcels, and
- (viii) the manner in which notices for production of invoices, licences, etc. are drawn up, particularly in regard to their clarity and courtesy?

*Q. 94. Import parcels:*

*Have you any representations to make regarding the Customs handling of parcels received by post and containing*

- (i) trade goods,
- (ii) personal articles obtained from abroad,
- (iii) unsolicited gifts,

*in respect of*

- (a) valuation and assessment,
- (b) enforcement of import or other controls?

The working of the Postal Appraising Section in Bombay is far from satisfactory and there is much room for improvement therein. The accommodation for the Postal Appraising Section is not adequate. There are, therefore, conditions of overcrowding in this Section and this has come in the way of the expeditious disposal of parcels received in that Section. The parcels get mixed up and it is very difficult for the staff to locate the parcels belonging to particular parties. There are also no adequate sitting arrangements for visitors in the Postal Appraising Section. It is, therefore, necessary to see that adequate accommodation is provided for the Postal Appraising Section and there are proper sitting arrangements for the visitors in that section.

The procedure adopted for the clearance of the post parcels is also found to be rather cumbersome and the consignees are not in a position to take delivery of their parcels expeditiously. Parcels which arrive here by air within a few days from the place of despatch sometimes require disproportionately longer time for their clearance. We appreciate the fact that the Customs Authorities are aware of the need for minimising the delay in the clearance of post-parcels received in the Postal Appraising Section and they have introduced a few months ago a new system called "counter clearance" system. We would, however, point out that complaints about inordinate delays in the clearance of post parcels in the Postal Appraising Section still persist. Efforts in the direction of expeditious clearance of post parcels, therefore, require to be further strengthened.

Another matter which we would like to bring to the Enquiry Committee's attention is the complicated character of the form which the consignees have to fill up before taking delivery of the goods and samples imported by post. The importers are, therefore, unable to return the form to the foreign post office duly filled in forthwith, thereby causing delay in the clearance of the imported articles. It is, therefore, suggested that the form should be examined with a view to its simplification. We would also stress the need for taking measures to bring about a closer co-ordination between the two departments working in the Postal Appraising Section, namely the Foreign Postal Department and the Customs. It is observed that at the moment there is lack of co-ordination between the staff in both these Departments. The adequacy of the staff in the Postal Appraising Section of the Foreign Post Office should be examined with a view to strengthening it.

*Q. 96. Abuses of post parcels:*

*If you have noticed any frequent abuses of a serious nature relating to imports/exports by post, and affecting Customs revenue or import/export or other controls, please give examples and make your suggestions for the prevention of these abuses.*

There are frequent complaints about thefts and pilferages of post-parcels. We would suggest provision of adequate safeguards, so as to minimise the occasions for such thefts and pilferages.

## SECTION XII

### EXPORT: DRAWBACK OF IMPORT DUTIES

*Q. 98. Drawback: Commercial goods re-exported in original condition:*

*Have you any comments to make regarding the provision which has been made for the grant of drawback of Customs duties on imported commercial goods, on their re-export in their original condition, in respect of*

- (i) rates of drawback,
- (ii) the time-limits for shipment, and
- (iii) other conditions for payment of drawback?

(i) At present, the drawback of 7/8th of the import duty is allowed, subject to certain conditions. In view of the considerable increase in import duties recently, the question of raising the quantum of drawback should be examined.

The Customs Authorities should grant drawback of duties within a period of six months.

*Q. 102. Drawback: Imported goods used in indigenous manufacture:*

*Have you any representations to make regarding*

- (i) *the legal provision which has been made for grant of drawback of Customs duties on imported goods used in the indigenous manufacture of articles exported out of India,*
- (ii) *the facilities which have been provided by the department for obtaining drawback of Customs duties on imported ingredients of goods manufactured in, and exported out of, India, and*
- (iii) *the departmental procedure relating to the supervision of manufacture, and the scrutiny of drawback claims, in such cases?*

It is the general belief that the Scheme of drawback of import duty in force at present does not provide the necessary inducement for any significant increase in the export of finished products and as such the same requires to be reviewed with a view to its liberalisation. The procedure for registration as authorised manufacturers and for submitting claims, etc. is found to be cumbersome and long drawn-out. Exporters have to prove to the definite satisfaction of the Customs Authorities that the goods were manufactured purely from imported articles and that there is no indigenous ingredient used therein. This is not easy to prove. We would, therefore, suggest substitution of a scheme of drawback under which the rebate of the import duty is allowed on an *ad hoc* basis, duly taking into account an approximate estimate of the raw materials used and the import duty paid thereon and the exporters should be granted the necessary rebate in proportion to their exports of the declared articles.

Again, the drawback facility is, at present, available only in respect of raw materials stipulated by name in the relevant Rules, while the same product manufactured out of other similar or comparable categories of raw materials are excluded from the scope of the Scheme. We would suggest that raw materials selected for purposes of drawback scheme should be classified in a general way and not in terms of a specific kind or brand so as to allow utilisation of other suitable substitutes which would be advantageous to the manufacturers because of easy availability or manufacturing convenience or cheaper costs.

### SECTION XIII

#### EXPORTS & TRANSHIPMENT—GENERAL

*Q. 104. Form of Shipping Bill/Export Application:*

*(i) Have you any suggestions to make regarding*

*(a) improvement of the form which has been prescribed for the Shipping Bill/Export Application, and*

- (b) *the number of copies of the form which are required to be filed?*
- (ii) *What difficulties, if any, have you felt in furnishing the prescribed particulars in a Shipping Bill/Export Application?*

Provision should be made in the Shipping Bill to indicate the dead weight cargo, as this will facilitate the computation of wages of dock labour where piece-rate system is in force.

**Q. 105. Movement of Shipping Bill/Export Application:**

- (i) *Have you any suggestions to make regarding the possibility of reducing the number of stages through which the Shipping Bill/Export Application moves between presentation at the Custom House and actual shipment of the goods, without impairing the effectiveness of the essential checks required to be made at the various stages?*
- (ii) *If at any particular stage serious delays occur, please state their causes as far as they are known to you, and make your suggestions for minimising the delays.*

It is pointed out that delays occur in the various stages through which the Shipping Bills have to move from the time they are presented to the Custom House and the actual shipment of goods. The movement of shipping bills through the various stages should be expedited. Where an article is subject to Export Control and Export licences are to be granted on a liberal basis by endorsement on the Shipping Bills themselves, we would suggest that an Officer of the Export Trade Control Department should be associated with the Custom House for the purpose.

All the Shipping Bills are distributed by the Principal Appraising Officer to the Appraising Officers. At present, such distribution is done only twice a day. The distribution should be done four times a day, so that Shipping Bills submitted early afternoon can also be completed on that day. As regards delivery of completed documents, we would suggest the adoption of the practice of giving tokens against acceptance of Shipping Bills as is done in the Export Trade Control Department. The Shipping Bills should be completed and returned to the exporters concerned expeditiously.

When Shipping Bills are amended, the parties concerned have to pay an amendment fee for the same. The fee is, at present, recovered in cash. This causes a good deal of delay in the completion of the Shipping Bills. It is suggested that in order to avoid such delay, the amendment fee which is nominal should be collected by means of stamps affixed on the Shipping Bills.

***Q. 107. Short-shipment or relanding:***

*Have you any grounds to justify the extension of the period allowed*

- (i) *for giving notice to Customs, of short-shipment or relanding of goods,*
- (ii) *for making of refund claims where short-shipped or relanded goods have been charged to export duty?*

(i) Under the provisions of Section 140, if goods mentioned in the Shipping Bill or the Manifest are not shipped or are shipped but subsequently relanded, the shipper is required to give a notice to the Customs Authorities about this before the expiry of 5 clear days from the date of the sailing of the vessel. This period of 5 days is found to be too short in the case particularly of bulk shipments. It is, therefore, suggested that the period of 5 days provided for in Section 140 should be suitably increased.

**SECTION XIV****IMPORT/EXPORT: PAYMENTS AND RECEIPTS*****Q. 112. Deposit Account:***

*If you think the facilities for payments of duty, etc. through deposit accounts afforded in the Custom House are inadequate, what would you suggest to improve them, and why?*

The facilities which are allowed at present in regard to the payment of duties through deposit accounts are generally considered adequate. It is, however, suggested that the demand for extra duty or under-charges should not be debited to this account without prior reference to the account-holders.

***Q. 113. Facilities for payment by cheque:***

*What are the facilities, if any, provided in the Custom House for payment of duty, etc. by cheques? If you think an extension of these facilities is necessary, please make your suggestions stating your reasons.*

At present, payment of duty by cheque is allowed but cheques drawn on the Reserve Bank of India are only accepted. Insistence on cheques drawn on the Reserve Bank of India causes even greater delay than cash deposits. The object underlying the system of payment by cheques can be better realised if the cheques drawn on scheduled banks are also accepted for payment. We would also suggest the restoration of the previous practice, according to which cheques were allowed to be drawn for round amounts, the balance being permitted to be paid in cash.

## SECTION XV

### IMPORT/EXPORT: PASSENGERS' AND TOURISTS' BAGGAGE

*Q. 115. Baggage and currency declaration forms:*

*Have you any suggestions to make regarding*

- (i) *the improvement of the forms which have been prescribed for declaration of passengers'/tourists' baggage and currency;*
- (ii) *the arrangements made for the timely and advance supply of these forms to passengers/tourists so as to minimise delay in clearance of baggage after landing/before embarkation;*
- (iii) *the arrangements made to assist passengers/tourists in filling up the forms;*
- (iv) *the possibility of reducing documentation by passengers/tourists, if you think the documentation is excessive;*
- (v) *the possibility of the use of international baggage and currency declaration forms, if these are not already in use; and*
- (vi) *the standardization of forms and procedure at all points of entry and exit?*

The present form is complicated in character. The same requires simplification. The form should be modelled on the basis of the "International Baggage" forms and arrangements should be made for supply of the forms to the passengers on the steamer or aircraft by which they travel so as to minimise delay in the clearance of baggage after landing. Arrangements should also be made for expeditious supply of Customs Declaration Forms to the passengers going abroad. Forms should be supplied to the carriers or their agents for distribution to the passengers so that the forms could be filled in and kept ready for presentation to the Customs.

*Q. 120. Distinction between tourists and other passengers:*

*Do you think distinctive treatment should be accorded to (i) foreign tourists, (ii) passengers of foreign nationality, (iii) passengers of Indian nationality? If so, and if you consider a distinction of this kind is practicable, what are your suggestions and your reasons for them?*

We are not in favour of the idea about distinctive treatment to tourists and other passengers. Courtesy and politeness must be shown by the Customs staff to all the passengers whether they are tourists or not.

*Q. 125. Detentions:*

*Have you any representations to make regarding*

- (i) *the detention of passengers' baggage in Customs charge for fulfilment of Customs formalities;*

- (ii) the arrangements made for storage and care-taking of baggage detained;
- (iii) the period of detention in such cases;
- (iv) the charges for detention; and
- (v) the facilities available at the Custom House or other offices concerned for the clearance of detained baggage?

There appears to be room for improvement in the arrangements for storage and caretaking of the passengers.

## SECTION XVI

### PENAL PROCEEDINGS

*Q. 135. Contents of "show cause" notices:*

*Have you any criticism to make of the manner in which "show cause" notices are drawn up, with particular reference to the clarity of the charges framed?*

It is generally complained that the "Show Cause" Notices are not sufficiently clear and specific as regards the points on which explanations are asked for. The "Show Cause" Notices should be in exact terms and specify the alleged offence and the grounds therefor in precise terms.

*Q. 136. Personal representations:*

*Have you any views to express regarding*

- (i) in general, the facilities granted for personal hearing in penal proceedings;
- (ii) in particular, representations through legal counsel or other experts, at the
  - (a) original stage,
  - (b) appellate stage, and
  - (c) the stage of revision petitions?

The parties concerned should be given adequate opportunity for personal representation at the hearings in penal proceedings. At present, the parties are allowed to be represented by their counsels/advisers as a matter of grace by the Customs Authorities. We would suggest that this facility of representation by Counsels/Advisers should be given to the traders as a matter of right at all stages of the proceedings.

*Q. 137. Proceedings in minor matters or bona fide cases:*

*Have you experienced a general tendency on the part of Customs Officers to institute penal proceedings*

- (i) in comparatively minor matters;
- (ii) where errors have been committed in good faith; and

(iii) where errors have been committed in consequence of prior advice by Customs Officers, or Import or Export Trade Control Authorities, or other departmental Officers?

If so, please give some examples where this tendency has been observed.

There have been instances where penal proceedings are instituted in comparatively minor matters and for errors committed in good faith. In such cases, it is but proper that the parties concerned should not be subjected to the usual penal proceedings. The Authorities concerned should, therefore, be given discretion to waive institution of penal proceedings in such cases with warning to the parties.

*Q. 140. Grounds for decisions:*

*Have you any representations to make regarding the lack or inadequacy of the statement of grounds in decisions communicated to the parties concerned in penal proceedings at the*

- (i) original stage,
- (ii) appellate stage, and
- (iii) stage of revision petition?

The grounds are not specifically mentioned. Decisions given by the Customs Authorities should be quite clear and the reasons for the same should be precise.

*Q. 142. Prior deposit of penalties:*

*What difficulties, if any, have you experienced from the legal provision requiring penalties imposed at the original stage to be deposited as a condition precedent to the entertainment of appeals?*

The system of prior deposit of penalty before entertainment of appeal means locking up of funds. This causes hardship to the parties concerned particularly when the amounts are quite considerable. We would suggest amendment of Section 189 of the Sea Customs Act, so as to give discretionary power to the Appellate Authority to waive the condition of prior deposit of penalty or of duty or to accept smaller amounts having regard to the circumstances of the case. Section 189 should be further amended so as to require the Collector of Customs to return the amount of penalty or duty to the party concerned as a matter of course in case such penalty or duty was not leviable in terms of the decision in the appeal, and the party should not be required to demand the same.

*Q. 144. Machinery for adjudication, appeals and revision petitions:*

*Have you any comments to make generally on the set-up of the authorities empowered by the existing law*

- (i) *to adjudicate penal proceedings;*
- (ii) *to revise decisions of subordinate authorities;*
- (iii) *to decide appeals; and*
- (iv) *to decide revision petitions;*

*and what modifications, if any, would you suggest, with due regard to the need for expert knowledge on the part of adjudicating, appellate and revisionary authorities?*

Please see our Preliminary observations.

*Q. 146. Anti-smuggling operations:*

- (i) *With due regard to the appreciable incidence of smuggling of gold, currency, luxury articles, etc. into the country, have you any representations to make about the powers conferred upon Customs officers, of*
  - (a) *arrest of persons,*
  - (b) *searches of persons,*
  - (c) *searches of vessels and conveyances,*
  - (d) *seizure and detention of goods, and*
  - (e) *summoning of persons to produce documents and give evidence?*
- (ii) *Have you any representations to make regarding the manner in which these powers are exercised*
  - (a) *on board vessels or aircraft,*
  - (b) *within the limits of sea and airports and land Customs stations, and*
  - (c) *outside these limits?*

By an amendment of the Sea Customs Act, about 2 years ago, a new provision was inserted therein throwing the burden of proof in regard to goods seized on the ground that they are smuggled goods, on the person from whose possession the goods are seized. We strongly object to this provision in principle. In actual practice, such a provision has led to considerable hardship to and administrative harassment of the traders. We would, therefore, suggest that proper steps should be taken to avoid or minimise such harassment. We would, in this connection, particularly urge that no goods should be seized unless an order is made by a superior officer in writing giving reasons for the action, a copy of such order being furnished to the person from whom the goods alleged to be smuggled are confiscated. Further, such seized goods should not be detained by the Authorities for an unduly long time, unless it is decided to issue a "show cause" Notice, to the person concerned. The preliminary enquiry should also be expedited.

## SECTION XVII

## CUSTOM HOUSE AGENTS

*Q. 148. Grant of licences, etc.:*

*Have you any representations to make regarding*

- (i) *the legal provisions relating to licensing/authorization of Custom House Agents;*
- (ii) *the departmental procedure adopted for the licensing/authorization of such agents;*
- (iii) *the restrictions, if any, on the number of agents which may be licensed in any particular Custom House;*
- (iv) *the qualifications prescribed for persons who may apply for an agent's licence;*
- (v) *other conditions laid down for the grant of licences;*
- (vi) *the suspension or revocation of licences; and*
- (vii) *the procedure relating to, and the adjudication of, representations to superior officers regarding the licensing of Custom House Agents or the revocation or suspension of licences?*

*Q. 149. Facilities for Custom House Agents:*

*What are the difficulties, if any, you are experiencing in the Custom House regarding*

- (i) *the office space and other office facilities provided for your Custom House operations;*
- (ii) *access to Customs Officers; and*
- (iii) *facilities provided for Custom House Agents at the time of clearance of passengers and passengers' baggage?*

*Q. 150. Obligations of Custom House Agents:*

- (i) *What are the difficulties, if any, arising from the legal provision which imposes all the liabilities of the owner of goods upon his Custom House Agent?*
- (ii) *Since this provision is intended as a safeguard for the revenue and for the implementation of various controls, can you suggest any method by which any serious hardship caused to the Agent, by the enforcement of this provision, could be mitigated without loss to the revenue or without defeating the various controls?*

*Q. 151. General:*

*Have you any other representations to make on this subject of Custom House Agents?*

Section 202 of the Indian Sea Customs Act was amended in 1955 according to which no one can act as a Custom House Agent unless he holds a licence granted in this behalf in accordance with the Rules which may be framed for the purpose. It further authorizes the Chief Customs authority to make such Rules. Accordingly, the Central Board of Revenue, for the first time, prepared and published the Custom House Licensing Rules, 1957, in July this year. These Rules are of a far-reach-

ing character and seek to impose onerous obligations on the Custom House agents. Moreover, so far as Bombay is concerned, there are various links in the agencies traditionally engaged in the Customs clearing work. The Associations representing the respective interests engaged in Customs clearing work in Bombay have made detailed representations to Government. They have also submitted their detailed views to the Customs Reorganization Committee in regard to these Rules, which *inter alia* cover the points raised by the question in this Section of the Questionnaire. We would suggest that earnest consideration be given to the memoranda of views submitted by these associations representing the views of the respective interests engaged in the Customs clearing work in Bombay.

## SECTION XVIII

### MISCELLANEOUS

*Q. 154. Refunds (other than drawback):*

*Where serious delays are occurring in the disposal of refund claims (other than drawback claims), what, in your view, are their causes and how can these causes be remedied?*

The complaints about delays in grant of refunds are common. Sometimes, the delays are inordinate. We feel that the departmental delays in disposal of applications for refund can be greatly minimised by introducing a system of supervision of the work of the staff in charge by some responsible officer.

*Q. 157. Public Relations and Information Organization:*

- (i) *Have you any suggestions to improve the usefulness of the Public Relations and Information Organization in the Custom House?*
- (ii) *Do you think that the Import/Export Trade Control authorities should be represented on the staff of this organization, and if so, why?*
- (iii) *In case you are of the view that the correct information and responsible advice should be provided to the public on request, if the organization is to be at all useful, do you think the existing organization is adequately staffed and equipped for this purpose, and if not, what are your suggestions to improve its efficiency?*
- (iv) *With due regard to all the implications, do you advocate that the advice given by the organization, on which commitments by importers/exporters are ordinarily based, should be binding on all the officers and authorities concerned with the import/export of goods, and on Government, as well as on the importers/exporters themselves?*

In reply to another question, we have already suggested that the Enquiry and Information Section of the Custom House should be strengthened. The Public Relations Section should

also similarly be strengthened with competent and experienced staff. Persons with adequate knowledge of Import/Export Control Policies and Regulations should be associated with the Enquiry/Information and Public Relations Organizations. If necessary, the persons who should be so associated may be drawn from the Import/Export Trade Control Offices.

*Q. 158. Customs Advisory Committees:*

- (i) *Have you anything to suggest which would, in your view, improve the usefulness of Customs Advisory Committees?*
- (ii) *If you think such Committees should be set up at ports where they do not exist at present, please state your reasons.*

(i) We would suggest that the procedural difficulties which are represented to the Collector of Customs or his subordinates should be duly placed before the Customs Advisory Committee for their consideration and advice and it should not be the policy to place on the Agenda for the meetings of the Committee only those points and matters which are received from its members.

How often the Committee should meet will of course depend upon the volume of work to be disposed of but it should be seen to it that matters referred to the Committee should be disposed of expeditiously so that the Customs Authorities will have the benefit of the views and suggestions of the Committee on the questions of procedural difficulties which may be pending before them for disposal.

*Q. 159. Statistical information:*

*Have you any improvements to suggest in the present form and scale of statistical information supplied to the public on imports/exports with the assistance of the Customs Department?*

"The Monthly Statistics of the Foreign Trade of India," is from the beginning of this year, published in a new form. The new publication is a detailed and comprehensive one and gives valuable information. It, however, does not contain *separate tables*, which used to be given in the previous publication, giving *country-wise* statistics of Imports/Exports and Re-exports. It is suggested that the usefulness of the present publication can be enhanced by adding such tables therein.

*Q. 160. Ports declared open for foreign trade:*

*With due regard to the need for maintenance of adequate expert Customs Supervision over imports and exports, particularly at the present time of controlled national economy, do you consider that the existing number of ports declared open for foreign trade too large/too small? If so, why?*

In the context of our expanding and developing economy, the need may be felt for opening of more and more Ports for foreign trade. Additional Ports should be thrown open to the foreign trade, when it is justified by the quantum of potential trade through them.

My Committee hope and trust that their Views and Suggestions on the various points covered by the Enquiry will receive careful consideration at the hands of the Enquiry Committee.

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## APPENDIX 37

### Policy governing Import of Capital Goods

*Letter No. 696 dated 19th March 1957 from Chamber to the Ministry of Heavy Industries, Government of India.*

The Federation of Indian Chambers of Commerce & Industry has forwarded to this Chamber a copy of the communication No. 370-8/57 dated the 23rd January 1957 from your Ministry to the Federation, setting out the policy and procedure which Government propose to follow in the matter of the grant of import licences for the importation of capital goods required for developmental purposes. The Committee of my Chamber have given careful consideration to the same and wish to place before Government their views and suggestions in regard to certain essential aspects of the policy and procedure under reference as also in regard to the practical difficulties that are likely to be encountered in evolving proposals or arrangements for meeting the foreign exchange requirements on the lines indicated by Government.

My Committee readily recognize that the decline in the country's external reserves has necessitated concerted efforts to conserve our foreign exchange resources for purposes of an essential character and in that view of the case, till such time as either additional foreign resources are forthcoming or our balance of payments position shows a distinct improvement by an expansion in the volume of our export trade, greater checks on imports are inevitable. They also realise that in that process there would be a prior claim on the available resources for maintaining and sustaining the existing level of economic activity and that import assistance for new schemes or for further development either in the public sector or the private sector will have to be treated as next in order of importance to that

necessary for maintaining the requirements of existing operations and activities. In the suggestions that they are making they have, therefore, taken due account of these basic aspects and should be deemed as in the nature of suggestions or adjustments within the framework of the overall policy curtailing our foreign exchange needs and commitments to strictly essential directions and purposes.

In the first place, my Committee presume that the restriction would not in any way apply to import licences already granted on the basis of permission or licences given under the Industries Development & Regulation Act, 1951. The statement in Government's letter that "Having regard to the volume of outstanding import licences for capital goods which constitute a first charge on the country's foreign exchange resources the amount which has now been allocated for the import of capital goods for new schemes has been fixed at an exceedingly low figure" justifies the above assumption, and in order to clear a feeling of uncertainty existing in the minds of those who have already been granted import licences, it would be desirable for Government to make it clear that the restriction would not apply to those imports for which licences have already been granted and commitments already made in respect thereof.

Secondly, there will be cases of import requirements in respect of schemes or projects which have already been permitted under the Industries Development & Regulation Act, but for which actual licences may not have been issued. It is conceivable that in respect of such new development projects, the preliminary and preparatory stages of the work might have sufficiently advanced and in such cases, just because the actual import licences have not been issued, the implementation of the same should not be jeopardized by lack of import permission. At any rate, in cases where effective steps have already been taken by placing orders for imports of capital goods or where licences for importing a part of the machinery and equipment have already been granted and as a consequence some payment towards the cost of the machinery or as remuneration for the collaboration has already been made, the new procedure restricting import permission should not be made applicable. If the check on imports operates in respect of such projects or developmental activities, apart from those interested in the country losing the benefit of the amounts already spent, the scheme of expansion or development will be rendered infructuous. In the communication of Government under reference, the following observation occurs: "Likewise, if the foreign exchange required

for any project has already been released to the extent of say 90%, the balance 10% may well be released in order that what has already been spent may not be rendered infructuous". My Committee would like to submit that there should be no rigidity in terms of percentages. Each case should be considered on merits and where a part of the foreign exchange has already been met and where payments for foreign purchases or assistance have already been partly made, the further progress of the effort in question should not be hampered by reason of further imports being disallowed. In short, in the actual operation and implementation of the new procedure, commitments already made even though of a smaller magnitude, should be given due and sympathetic consideration in the light of the repercussions of the termination of such arrangements and losses arising therefrom.

Thirdly, in cases where the expenditure in foreign exchange will result in an immediate improvement in the country's dependence on imported supplies or requirements, or alternatively would result in immediately releasing additional resources which themselves would assist in earning for the country more foreign exchange than is involved in paying for the import in question, the restriction should not operate, that is, if the import assistance is required for an effort or activity which, within a period of two or three years, is able to assist in a substantial saving in foreign exchange, otherwise involving in importing finished product, or will release exportable commodities to a substantial volume, and in the process add to our foreign exchange earnings, just because of the time lag, the import assistance in the shape of the necessary licences should not be withheld.

The Committee request that the above considerations and aspects concerning the implementation of the new procedure may be given due and favourable consideration.

Government have, at the same time, in their communication indicated ways and means of reducing the foreign exchange requirements to the minimum. One such suggestion is the negotiation for long-term credit from the overseas suppliers of machinery or other similar sources. Elaborating the proposal, it has been explained in the Government's communication that Government would expect that payment before the arrival of the machinery does not exceed 20% of its value and further that the balance is repayable in not less than seven years after the arrival of the machinery in the country. The Committee of my Chamber have examined the feasibility of and the pros-

pects for negotiating such long-term credit arrangements from the overseas suppliers. In the first place, generally the supply position in respect of capital goods would not justify our being able to persuade the foreign suppliers to agree to terms of deferred payment. With over-booked order books, most of the overseas manufacturers, naturally, cannot be expected to go out of the way to agree to give long-term credits to their Indian buyers. Again, even in cases where such suppliers may be prepared to consider proposals for deferred payment, they would do so only on the basis firstly of an additional charge in the shape of interest for the period covered by the arrangement, and secondly some form of guarantee for the ultimate liquidity of the debt. The prevailing interest rates in some of the countries from which we are traditionally importing plant and equipment are such that the additional charge demanded for deferred payment would materially augment the capital cost to the industry in question.

Similarly, the form and scope of the guarantee to be given to the foreign supplier will present difficulties of a practical nature. The suppliers would naturally insist on a form of guarantee acceptable to the bankers of their country and no Indian or credit institution would be able generally to give a guarantee on a long-term basis; even if such a system or scheme is evolved by Indian bankers it is a moot point if the foreign banks would be prepared to accept such a guarantee with long duration.

This difficulty which is both substantial and real in the way of Indian importers being able to negotiate long-term credits with their foreign suppliers can be overcome only on the basis of some general arrangement evolved by the Government of India through the good offices of the Government of some of the important supplying countries. As to how a scheme for Government undertaking responsibility in respect of guaranteeing such long-term overseas commitments can be evolved is, perhaps, a matter of detail if the underlying principle is accepted. An *ad hoc* financial institution may be set up for the purpose which may enter into negotiations with counterpart credit institutions in the supplying countries, the responsibility for the ultimate settlement of accounts being discharged by arrangements between the financing agencies or credit institutions in the two countries. The mechanics of the special arrangement may, perhaps, be worked out with the assistance of internationally recognized financial institutions like the U.S. Import-Export Bank, the United Nations International Finance Cor-

poration, etc. The Life Insurance Corporation of India may also be able to play a part in the setting up of the new guaranteeing agency. My Committee are only emphasizing that unless Government evolve a machinery and a basis for negotiating long-term credits with some of the supplying countries, it is inconceivable that through private initiative alone a flow of import assistance on the basis of long-term credit from overseas suppliers can materialise as a regular feature of our developmental effort. Moreover the aspect of possible exchange fluctuations and consequent changes in the capital cost to the industry concerned and their effect on the negotiations for long-term credit also assumes importance. My Committee believe that only under an overall arrangement evolved at the official level, would it be possible to enlist the assistance and co-operation of lending institutions set up in various countries for encouraging exports, in a manner which would make it possible to obtain long-term credit without any undue risk of variation in the rates of currencies of the countries concerned.

My Committee, therefore, request that the above aspect may be given further consideration by Government and necessary steps taken to bring about arrangements which would keep the flow of imports of capital equipment necessary for our developmental activities to the extent that such activities have been approved in terms of the Industries Development & Regulation Act, or form part of the scheme of the development or expansion envisaged in the Second Five-Year Plan.

*Letter No. CG2(1)/57 dated 22nd July 1957 from the Government of India to Chamber.*

I am directed to invite a reference to your letter No. 696 dated the 19th March 1957, on the above subject.

2. It is confirmed that the new import policy relating to capital goods applies only to further applications for import licences. Import licences already issued may be utilised in accordance with the terms of those licences.

3. With regard to projects on which substantial amount of equipment has already been secured, your attention is invited to para 6(a) of the Public Notice No. 43-ITC(PN)/57 dated 29-6-1957, issued by the Chief Controller of Imports & Exports.

4. Government have under consideration the question of guarantee for deferred payment arrangements. For example, the Industrial Finance Corporation may be authorised to guarantee these schemes.

## APPENDIX 38

### Import Duty on Machinery and Equipment

*Letter No. 1787 dated 22nd August 1957 from Chamber to the Ministry of Finance, Government of India.*

As part of their measures of encouragement to Indian manufacturing industries, Government have been extending to them concessional rates of import duty on machinery and equipment imported from abroad. Thus, the series of Notifications issued by the Ministry of Finance (Department of Revenue) upto and including the one No. 119-Customs dated 1st December 1956 reducing the standard rate of duty of  $10\frac{1}{2}\%$  to a concessional rate of  $5\frac{1}{4}\%$  had been assisting indigenous industries in the matter of their programmes of expansion or replacement, renovation and rehabilitation and the *bulk* of machinery and equipment falling under I.C.T. Schedule items 72 and 72(3), (17), (18), (20), (21), (24), (25) and (38) were being permitted to be imported under such a scheme of partial exemption from Customs duty.

However, Notification No. SRO.1627 (No. 97-Customs) dated the 16th May 1957, issued following the Finance Minister's Budget Speech on the 15th May 1957, superseded the earlier Notifications, restricting in its operation the scope of the concessional import duty to a very limited number of items, viz. Railway locomotives, electrical equipment, machine tools and certain other special types of machinery and equipment, and, incidentally, removing therefrom many other items of machinery and equipment which could be imported at the partial duty exemption basis in terms of the notification dated 1st December 1956.

The Committee of the Chamber have received representations from manufacturing interests in the country drawing attention to the adverse effects that would stem from Government's action as above in confining the concessional rate of import duty to a handful of items, instead of the bulk of capital equipment and machinery as previously. Many a manufacturing undertaking has had programmes chalked out for rehabilitation and/or expansion on the basis of the availability of the reduced import duty on plant and equipment required by them for which they might have placed orders abroad, and the withdrawal of the concessional rate for such items would now seriously upset their calculations and enhance their costs on this score. The secondary, but as well important, undesirable effects of

Government's action on the prices of manufactured goods within the country and on the competitive capacity of industries which may be operating in the international markets cannot also be lost sight of.

My Committee are aware that during the course of his Budget speech the Finance Minister referred to the need for rationalising the tariff structure and to give the tariff rates a simpler form. They, however, hold, and firmly believe, that it could not have been the intention of Government, that the process of such rationalisation and simplification should be at the cost of the concessional treatment shown to industrial units in the matter of Customs Duty on their capital machinery and equipment imported from abroad. At a juncture like the present when there is all-round demand to maintain manufacturing costs at as low a level as possible and the need for holding the price line is being stressed more and more, any increase in the prices of manufactured articles on account of the enhanced costs of capital equipment and machinery will be strongly felt.

The Committee of the Chamber, therefore, request that Government will be pleased to give their earnest and urgent consideration to the above aspects of the problem, with a view to restoring the concession in the rate of import duty available to industrial machinery and equipment covered by the relevant items in the Indian Customs Tariff Schedule. The Chamber may kindly be informed of the action Government have taken or propose to take in this regard, in due course.

## APPENDIX 39

### Procedure relating to Transfer of Quotas

*Letter No. 2279 dated 21st October 1957 from Chamber to the Chief Controller of Imports.*

The Committee of the Chamber have, on several occasions in the past, drawn Government's attention to the complicated character of the procedure laid down in the Import Control Regulations for the transfer of quota rights which has been causing a good deal of hardship and inconvenience to the importers. Even admission of one or two new partners is considered as a change in the Constitution of the firm concerned requiring the latter to go through all the procedural formalities for getting the import quota transferred formally in the name of the reconstituted firm. Changes in the Constitution of part-

nership firms by admission of new partners therein are a normal feature of partnership business. Every time there is a change in the Constitution of a partnership firm in this way, the firm is required to apply for transfer of quota rights in the name of the reconstituted firm.

The procedure relating to transfer of quota rights has become vexatious mainly because of the requirement that all changes in the Constitution of firms have to be made by Deeds registered with the Registrar of Documents. In the first place, Deeds have to be specially registered with the Registrar of Documents for the purpose of transfer of import quotas. Neither the Indian Registration Act nor the Partnership Act requires the partnership deeds to be registered with the Registrar of Documents and, therefore, partnership deeds are seldom so registered. Secondly, the parties applying for transfer of quotas are put to unnecessary cost by way of heavy registration fees. Thirdly, the parties are handicapped by the delay in getting back the documents forwarded to the Registrar of Documents for registration.

My Committee would, therefore, suggest that with a view to avoiding hardship to the importers and additional cost as a result of their being required to register their relevant documents with the Registrar of Documents for the purpose of transfer of quotas, Government should agree to copies of the documents certified by a Notary Public or a person competent to administer oaths being accepted for the purpose of transfer of quotas.

It is hoped that Government will take early action in the matter and inform the Chamber of the same in due course.

## APPENDIX 40

### Distribution of Imported Raw Silk

*Letter No. 2215 dated 14th October 1957 from Chamber to the Ministry of Commerce and Industry, Government of India.*

For the last few years, import of raw silk has been canalised through the Central Silk Board and no import of this article through the established trade channels has been allowed. When the policy of canalisation of imports of raw silk was first introduced, the Committee of my Chamber had pointed out that such a policy would lead to elimination of the established trade channels. They had further suggested that in the event of the

policy of canalisation of imports through the Central Silk Board being continued despite protests from the trade interests concerned, the least that could be done was to enlist the services of the existing trade channels in the field of distribution of the imported stuff. Government were good enough to consider this suggestion and had actively carried on negotiations with the interests concerned for some time with a view to finding out a suitable workable scheme, whereby the existing trade channels could be absorbed in the distribution of imported raw silk. No final decision in the matter, however, seems to have been taken as yet by Government and the established traders in raw silk continue to be without any share in the distribution of the item. The purpose of this Communication is to request Government to expedite finalisation of the scheme for entrusting the distribution of the imported raw silk to the established trade channels and to implement the same without any further delay.

The Chamber would like to hear from Government in the matter at an early date.

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#### APPENDIX 41

##### **Drawback of Duty on Imported Raw Materials used in the Manufacture of Goods exported**

*Letter No. 1695 dated 2nd August 1957 from Chamber to the Federation of Indian Chambers of Commerce and Industry.*

It has been generally found that the facility of drawback at present granted in respect of some of the imported raw materials does not provide the necessary stimulus for any significant increase in the exports of the finished products. Firstly, the procedure laid down for registration as authorised manufacturers and for submitting claims, etc. is found to be cumbersome and unduly complicated. Exports of the finished goods are made both by manufacturers and exporting houses. In order to claim drawback, the manufacturers have to prove to the definite satisfaction of the Customs that goods are manufactured purely from imported goods, which process is very difficult even in genuine cases. Some liberalisation in the procedure for grant of drawback will go a long way in encouraging an increasingly large number of manufacturers to take advantage of the drawback facility and to contribute towards export promotion. The suggestion to determine the rate of rebate on an *ad hoc* basis in respect of individual items, taking into account the approximate

estimate of imported raw material used and percentage of duty paid on them requires to be considered favourably, as it will avoid the irksome procedure of establishing their claim for drawback. Authorised exporters of the declared article could be granted the necessary rebate in proportion to their share in exports. Such a simplified procedure should be laid down wherever practicable and if need be, the Sea Customs Act should be suitably amended to permit such liberalisation.

In the United Kingdom, it has been submitted, a fixed drawback is granted to exporters of sugar confectionery on the amount of sugar, molasses, etc. shown to have been used in their making. The procedure followed is that manufacturers advise the Excise and Customs Authorities of the ingredients used in each line of the exportable products and the Authorities advise them of the amount of drawback that could be claimed. When the goods are actually exported, the manufacturers declare their quantity and description on the prescribed forms, on the basis of which the drawback is allowed. There is also no provision in Great Britain for the making of confectionery in bond. The Confectionery Manufacturers' Association has suggested that all the popular varieties of confectionery should be classified into a few standard categories and the drawback in each category worked out on the basis of average consumption of different imported raw materials used in the confectionery products in that category. The present procedure of assessing the composition of each and every export packet causes the manufacturers a great deal of inconvenience, trouble and delay and does not make the Scheme profitable or worthwhile.

Another practical difficulty to which our attention has been drawn is that in some cases, the drawback facility is granted only in respect of raw materials stipulated by name in the Rules, while the same product manufactured out of other similar categories of raw materials is excluded from the Scheme. To illustrate the case, in the case of leather cloth, the Rules lay down the names of plasticizers to be used in the manufacture, viz. Dioctyl Phthalate, Trixylyl Phosphate and Dibutyl Phthalate. Leather cloth is also manufactured in India by utilising other substitute plasticizers which are imported in large quantities from foreign countries. Such leather cloth manufactured out of cheaper substitute plasticizers, has also great demand in foreign markets because of the comparative price advantage. It has, therefore, been suggested that instead of allowing the drawback only to certain kinds of plasticizers, the facility should be available in respect of all kinds of plasti-

cizers used in the manufacture of leather cloth. Raw materials selected for purposes of drawback scheme should be classified in a general way and not in terms of a specific kind or brand, so as to permit utilisation of other suitable substitutes which may be advantageous to the manufacturers because of easy availability or manufacturing convenience or cheaper cost.

There have also been some complaints of administrative delays in disposing of requests for registration of authorised manufacturers and in attending to the procedural formalities laid down under the Rules. In order to make the Scheme attractive and profitable to the manufacturers apart from a liberalisation in the Rules for grant of drawback and simplification of procedural formalities, such administrative delays have also to be eliminated. If the Government of India could be persuaded to make the whole Scheme of drawback of duty more liberal and of easy administration and at the same time more attractive to the manufacturers, same will give a fillip to our Export Promotion Drive.

As regards new items that might be included under the Scheme, I am sending to you separately the suggestions received from members in this connection.

## APPENDIX 42

### **Delay in the Delivery of Airmail Articles**

*Letter No. 433 dated 14th February 1957 from Chamber to the Collector of Customs.*

The Committee of the Chamber had many a time in the past occasion to draw your attention to the difficulties to which importers are put, consequent upon the inordinate delay in the receipt of airmail post and parcels from overseas countries. They had pointed out that importing interests naturally undergo and bear the burden of the comparatively higher charges involved in getting such post and parcels by air, only on the presumption and expectation that the quicker receipt of airmail parcels or samples would enable them to finalise their business dealings based on such samples.

I am desired to invite your attention once again to this aspect and to make a reference to an instance of inordinate delay experienced by an importer in receiving even airmail registered articles sent to him from abroad. The facts of the case may be briefly stated:

Shri Jal Cooper, Standard Building, Hornby Road, Bombay—a member of the Chamber—in his capacity as the Editor of the "Indian Stamp Journal" had been sent a registered insured airmail parcel by Messrs. Harmer, Rooke & Co. Ltd., London, which, it would appear, was received in the Foreign Post Office on the 1st December 1956. The parcel was delivered to Shri Cooper as late as on the 11th January 1957. My Committee are aware that some time-lag would necessarily be involved in getting through the necessary Customs formalities, in determining that the imports in question are *bona fide* and, wherever necessary, in deciding that the parcel or packet represents goods imported against a valid import licence. The time taken for the purpose should, however, be kept to the minimum necessary, and in any case should not be allowed to stretch over an inordinately long period. In the particular case under discussion, the import licence, against which goods are imported, was left with the authorities, and in that view of the case my Committee are at a loss to understand as to the reasons for the detention of the said registered parcel for such a long time. Incidentally, it may be mentioned that an inquiry addressed by Shri Cooper in this connection to the Assistant Collector of Customs, Postal Appraising Department, and sent by registered post, does not seem to have evoked any response so far.

The Committee of the Chamber have been constrained to bring to your notice the details of the above case, because of the fact that Shri Jal Cooper has since lately been experiencing this sort of difficulty and airmail letters addressed to him from a firm in London on different dates during last month have still not been received by him.

My Committee, therefore, request you to kindly look into the matter and to take such steps and to arrange the procedural matters that importers are not put to any avoidable difficulty on account of inordinate delay in receipt of airmail articles after their arrival in the Foreign Post Office here.

*Letter No. C/1300/57 dated 19th February 1957 from the Collector of Customs to Chamber.*

Please refer to your letter No. 433 dated 14th February 1957 regarding the delay in the delivery of airmail articles addressed to Shri Jal Cooper.

My Assistant Collector has already addressed a separate communication to Shri Jal Cooper explaining the nature and causes of the delay in the release of the parcels addressed to

him. As you are aware, the Custom House has introduced with effect from 1st October 1956, the counter-system of assessment whereby the importer can present the licence and documents directly at the counter and have the parcels released the same day. Shri Jal Cooper has been advised to take advantage of this procedure.

The primary cause of the delay in the release of the parcels addressed to Shri Jal Cooper apparently arose from the fact that debits had to be raised against a single licence in respect of parcels arriving simultaneously or at regular intervals. The procedure whereby the importer can have his licence subdivided so as to facilitate speedy clearance of parcels arriving simultaneously, has also been explained to Shri Jal Cooper. It is hoped that with the adoption of the above-mentioned procedure, there may not be any cause for complaints of delay in future.

The counter-system of assessment has been working satisfactorily and parcels and packets are being released with the least delay. You are requested to bring to the notice of your members this procedure whereby the importers can effect speedy clearance. Any practical difficulty encountered by your members may be brought to the personal notice of the Assistant Collector so that suitable remedial measures may be adopted.

Incidentally, you have referred in para 1 of your letter to numerous past complaints by the Chamber regarding difficulties in the clearance of airmail parcels through Customs. My office has, however, been unable to trace any such complaints during the recent past, and I shall be glad to be furnished with details of the same, to enable me to look further into them.

*Letter No. 916 dated 20th April 1957 from Chamber to the Collector of Customs.*

I am desired to invite your attention to your letter No. 1300/57 dated the 19th February 1957 on the above subject. The contents of the same have been noted by my Committee and they have been brought to the notice of the Members of the Chamber with a request to comply with the procedure for the expeditious clearance of post parcels.

It has been suggested that while the introduction of the new procedure brings about an improvement in the earlier position, perhaps greater efforts could be made to see that the

formalities required to be completed for clearance of post parcels under the counter-system of assessment are arranged to be expeditiously gone through so that the objective underlying the introduction of the procedure of counter-system of assessment is really fulfilled and that an importer is enabled to take delivery of the parcel, after presentation of completed documents, without being made to wait for an unduly long time.

*Letter No. C/1300/57 dated 9th May 1957 from the Collector of Customs to Chamber.*

Please refer to your letter No. 916 dated 20th April 1957.

2. Suggestions had been invited from the trade regarding improvements which could be introduced in the counter-assessment procedure. One suggestion made was that registration of licences should be attended to in the Postal Appraising Section itself. This suggestion is under active consideration now and it is proposed to introduce a separate registry section shortly in the Postal Appraising Section.

## V. GENERAL

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### APPENDIX 43

#### **Questionnaire issued by the Foodgrains Enquiry Committee**

*Letter No. 1967 dated 13th September 1957 from Chamber to the Secretary, Foodgrains Enquiry Committee.*

I am desired by the Committee of the Chamber to refer to the Questionnaire issued by your Committee. They have given very careful consideration to the same and I am now desired to address you as follows. Other agencies and interests directly and intimately concerned may be expected to reply to the various questions in the Questionnaire and furnish detailed information envisaged by such questions; they have therefore confined their observations to the main points arising from the reference.

The Foodgrains Enquiry Committee is expected to review the present food situation and to examine the causes of the rising trend of food prices since about the middle of 1955 and to assess the likely trends in demand and availability of foodgrains over the next few years and to make suitable recommendations to ensure a level of prices which would provide the necessary incentive to the producer with due regard to the interests of the consumers and the maintenance of a reasonable cost structure in the economy.

India is essentially an agricultural country. We have launched upon a concerted and planned effort to bring about a balanced economy which envisages the rapid industrialisation of the country. This we are trying to do through the implementation of the First Five-Year Plan and the Second Five-Year Plan. The process, however, requires a colossal investment of funds which have to be found by the mobilisation of resources both internal and external. The heavy programme of import of capital goods involves a great drain on our foreign exchange resources and at the moment, the problem has developed into a crisis. There are limitations on the extent to which foreign capital either as loans or aid funds can be had to finance our developmental programme. In the context, the continued drain on foreign exchange resources involving import of substantial supplies of foodgrains from time to time imposes a significant limitation on our efforts to find adequate funds required for financing of the Plan. Viewed in this light, it will be easily admitted that the food problem is really the most important

problem before the country and the manner in which it is handled will have a significant effect on the success of our efforts to implement the Second Five-Year Plan. Not only that but as has been correctly stated in the Plan, the production of foodgrains and raw materials must remain not only for the Second Five-Year Plan but for several years to come a major desideratum. Efforts have been made in the recent past to impart an element of stability to the economy of the country by a programme of action designed to augment the food production in the country. These efforts have had a measure of success and yet since recent past, the prices of foodgrains have been rising and in spite of Governmental measures from time to time to arrest the rise in prices, there is no material improvement in the position. This only emphasizes the importance of the problem and underlines more concerted efforts to improve the food production in the country.

Foodgrains constitute the major item entering the cost of living, and the continuing rise thereof has created a serious situation for persons belonging to the fixed income group, whose capacity to withstand even a slight increase in the cost of living has been seriously limited in the context of the all-round heavy burden of indirect taxation. Then again, the rising prices create a serious situation for industries where cost structure is affected by the increase in the wages to the workers based on the cost of living index. The increase, therefore, in food prices have the potentials of influencing a general spurt in price levels and should such an eventuality arise, it will release forces of industrial unrest which may jeopardize the successful implementation of the Second Five-Year Plan.

My Committee are, therefore, glad to note that Government have viewed this matter with the utmost urgency and seriousness and express the hope that the deliberations of the Enquiry Committee will result in formulation of such suggestions and recommendations for Governmental action as would result in the achievement of the objectives as set forth in the terms of reference to the Enquiry Committee. An examination of the position regarding production of foodgrains in the country would indicate that there has been an overall rise in food production. The total food production for the crop year 1956-57 is placed by official estimates at 68.6 million tons as compared to the 65 million tons in 1955-56 and 66.6 million tons in 1954-55. This improvement in the production of the foodgrains in the country must be viewed in the context of the serious position obtaining at the time of the partition of the country as a result of which India

ceased to have the benefit of a major portion of the irrigated land of the undivided India. Consequently, the problem of foodgrains assumed a very serious proportion and large supplies had to be imported to ward off a major crisis. Very rightly, therefore, when the country launched upon a planned development of her economy, the main emphasis was on the attainment of self-sufficiency in food supplies and the increase of  $7\frac{1}{2}$  million tons of foodgrains was laid down as the target of production to be attained by the end of 1955-56. Actually, the food production exceeded the target by  $3\frac{1}{2}$  million tons and stood at about 65 million tons in 1955-56, as compared with the production of 54 million tons in 1949-50. At the end of the First Five-Year Plan, there was thus a definite and considerable improvement in the food production in the country which made it possible for Government to progressively reduce the quantity of foodgrains imported from abroad and at the same time to remove the system of controls in regard to the prices, movement and distribution of foodgrains in the country. The Second Five-Year Plan carries forward the process of intensive cultivation initiated in the First Five-Year Plan.

The comparative improvement in the food production had induced a sense of complacency and the feeling was that the First Five-Year Plan having laid a solid foundation for self-sufficiency in foodgrains, the position was comfortable and it only remained for the Second Five-Year Plan to solidify the gains already achieved by the First Five-Year Plan in this sphere. Perhaps, as the recent phenomenon of rising food prices would indicate, those expectations were not based on a true appreciation of the correct position. The satisfactory food situation during 1951-54 was more an outcome of fortuitous circumstances such as favourable monsoons, etc. Again, this improvement has to be related to the increasing population of the country which makes for progressive increase in the demand for consumption. During 1941, the population of India was 312.8 million. In 1951, the population was estimated at 357 million and by 1961, the population is estimated to go up to 410 million. It would thus be seen that the increase in food production is to a large extent absorbed by increasing population of the country making it difficult for any substantial improvement in the *per capita* consumption standards. If, therefore, the country has to attain a measure of stability on food front, it is necessary that the food production in the country is increased progressively. Both Government and the people should, therefore, take energetic

measures for augmenting the production by adoption of both intensive and extensive methods of cultivation.

In this context, it is pertinent to point out that the recent official evaluation of the performance in the first year of the Second Five-Year Plan indicates an uneven picture. The production of rice and wheat has increased but the tendency of cultivating cash crops has affected the production of coarse grains like maize and jowar in certain parts of the country. The relative shortage of the supplies of such coarse grains and their consequent high prices are bound to have their impact on the prices of the main cereals such as wheat and rice. This tendency, therefore, requires to be checked. In the task of increasing the agricultural production, increase in the supply of irrigation water, fertilizers and improved availability of seeds to the farmers naturally will play an important part. In this context, the need for increasing the availability of fertilizers in the country cannot be over-emphasized. With this end in view, my Committee would like the Foodgrains Enquiry Committee to inquire into the particular aspect of availability of fertilizers and to recommend, if necessary, to appreciably increase the production capacity by permitting the setting up of new manufacturing units during the period of the Second Five-Year Plan. As regards irrigation, considerable headway has been made for building up important dams and projects but as your Committee must doubtless be aware, perhaps, due to lack of sufficient foresight and co-ordinating action, the agriculturists have not been able to derive the full benefit of the new irrigation facilities. The causes contributing to this state of affairs should be examined very thoroughly and remedial measures suggested so as to bring about an increased utilisation of irrigation facilities by the farmers.

In the foregoing paragraphs, my Committee have tried to review the position of food production in the country and in the process to indicate that although there is an overall rise in the food production, much leeway requires to be made for attaining any degree of self-sufficiency. Examining the position of production in different States, it would appear that States like Andhra, Punjab, U.P., M.P. and Rajasthan are surplus States and the remaining States excepting Kerala and Kashmir would be in a position to meet their own requirements from local production. If in spite of this, the prices have been rising, the reason for the same has to be found in a number of complex

factors which collectively contribute to the difficult position as present.

The foremost among the factors contributing to the rise in prices is the undercurrent of inflation running through the economy of our country. To finance the developmental projects under the Second Five-Year Plan, we had to resort to an appreciable dose of deficit financing and the same has resulted in a general rise of price levels. There has been continuous upward trend of prices, the highest prices being in food articles which moved up by about 24% as compared to the last years' price levels. This phenomenon can be explained by growing pressure of demand consequent upon the inflationary situation in the economy. It is also possible that with the increase in the production, the *per capita* consumption of foodgrains by producers may have gone up. Another important factor for consideration is the availability of marketable surplus. It is difficult to estimate in quantitative terms the effect of this factor unless a fairly accurate statistical assessment is available. However, there are indications supporting the view that due to governmental policy of increased credit facilities to agriculturists, the capacity of large producers particularly, to withhold stocks has increased. The producer may choose to withhold the stock till such time as he is able to get a remunerative price for his produce. The consequent delay in the arrival of the produce on the market in adequate quantities immediately after the harvest may significantly be responsible for creating conditions of shortage and thus bringing about a spurt in the prices of foodgrains.

1. To meet this complex situation created by the interplay of these factors, my Committee would suggest that Government should arrange for adequate buffer stocks of foodgrains so as to be able to act effectively for bringing down any upward trend in prices, particularly in regions where scarcity is more pronouncedly felt. In this connection, my Committee feel that the recently negotiated wheat loan from the U.S.A. for 5.5 million tons would go a long way in relieving the situation.

2. Government have already arranged for the opening of a number of fair price shops. This is a step in the right direction and if such fair price shops are opened on an increased scale, it would facilitate supply to consumers at fair prices.

3. The advisability of fixing the maximum and minimum price for each variety of foodgrains so as to ensure a reasonable and remunerative return to the farmer. This will presume

Government's willingness to buy foodgrains at the minimum prices whenever necessary and sell in adequate quantities when the ceiling is reached.

4. My Committee have pointed out that the rise in food-grain prices would particularly affect persons belonging to the fixed salary group and industrial workers who are mostly concentrated in big cities. The problem created by the rising prices is, therefore, an urban problem and Government should devise a suitable scheme for the distribution of foodgrains to consumers in large cities at fair prices which would greatly help to solve the difficulties on this account. Government should arrange for distribution of foodgrains to Government servants, organised industrial labour and employees of large industrial and commercial organizations in big cities. So far as distribution of foodgrains to industrial labour and to employees of commercial and industrial organizations is concerned, my Committee feel that Government could usefully utilise the agencies of organised employers' associations in particular regions. They are sure that such institutions will come forward to extend their co-operation to Government in any scheme that they may formulate with a view to arrange for the distribution of foodgrains to their employees at fair prices.

5. It will be equally necessary to concentrate on the production of subsidiary food such as milk, vegetables, fruits, fish, etc. so as to reduce the entire dependence on cereals.

6. The non-availability of transport for movement of foodgrains from one part of the country to the other, on particular occasions, may result in creating a temporary set-back in the supply position of foodgrains in a particular region resulting in temporary shortages and consequent rise in prices. It should be Government's aim to see that adequate transport arrangements are made for movement of foodgrains from one region to another on such occasions.

My Committee have in the foregoing observations tried to indicate some of the measures which may be usefully taken to relieve the situation created by the rising trend of prices. In doing so, they would respectfully submit that the situation is not one which would justify the imposition of controls on production and distribution and prices. These are measures which have to be adopted to meet a grave situation and in their view the food situation although a little disquieting is not of a character which calls for such drastic remedies as the imposition

of full-fledged controls and introduction of rationing. In earlier years, under different set of conditions, the country has had to adopt these measures and it has enough experience of the attendant evils and the distortion which the system of control is likely to give rise to in the economy. My Committee, therefore, earnestly urge that even after taking into consideration the difficult food situation facing the country today, there is no justification to attempt to remedy the same by a system of controls and regimentation. As my Committee have already pointed out, perhaps the holding back of stocks by the producers may be one of the more important reasons contributing to the rise in prices. In this context, it is difficult to sustain the view that withholding of stocks by merchants is mainly responsible for bringing about a rise in prices of foodgrains. It is not the intention of my Committee to enter into a detailed examination of this aspect. Suffice it to say that in their view, the measures which Government have implemented for contraction of bank credit will help in keeping inflationary pressures under check especially in the food centres. The measures, if properly implemented, will augment the quantum of marketable surplus and reduce the scope for hoarding and speculative rise in the price of foodgrains.

In conclusion, the Committee of the Chamber would like to summarise their main recommendations made in the foregoing paragraphs, as follows:

- (i) As a short-term measure, Government should maintain buffer stocks, particularly in regions where scarcity conditions are more pronouncedly felt with a view to check effectively or bring down any upward trend in prices.
- (ii) The system of opening Fair Price Shops should be extended as and when necessary, in order to facilitate the supply of foodgrains to consumers at fair prices.
- (iii) Fixation of maximum and minimum prices for each variety of foodgrains should be considered, with a view to ensuring reasonable and remunerative returns to the farmer.
- (iv) As a means of relieving absolute dependence on cereals, Government should equally concentrate on production of subsidiary food items, such as milk, vegetables, fruits, fish, etc.
- (v) Suitable and adequate provision for transport facilities for movement of foodgrains over different areas.

- (vi) In view of the past none too satisfactory experience imposition of controls and rationing should not be resorted to, and instead,
- (vii) contraction of credit, especially in major food producing areas, may be undertaken in order to keep possible inflationary pressures under check.

My Committee urge that the Foodgrains Enquiry Committee will give earnest consideration to the observations made herein.

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## APPENDIX 44

### Code of Conduct for Insurers

*Letter No. 105-IF(27)/56 dated 2nd April 1958 from the Secretary, Executive Committee, General Insurance Council to Chamber.*

In order to associate the insurance industry in the administration of the Insurance Act, 1938, that Act was amended in 1950 providing for, *inter alia*, the establishment of an Insurance Association of India. All insurers carrying on general insurance business in India are members of the General Insurance Council of that Association. The authority of the Council is its Executive Committee which consists of individuals partly elected by the insurers themselves and partly nominated by the Government. The main function of this Committee is to aid and advise insurers in the matter of setting up standards of good conduct and sound business practice. Towards that end in view the Committee evolved in 1952 a Code of Conduct for observance by members of the General Insurance Council. Recently the Committee, under the chairmanship of Shri H. M. Patel, I.C.S., Principal Finance Secretary to the Government of India, reviewed the progress of the industry since the inception of the Code and decided to add certain requirements of a far-reaching nature which call upon insurers

- (i) to maintain certain minimum departmental reserves;
- (ii) to maintain certain minimum margin between their assets and their liabilities, called the Minimum Security Margin; and
- (iii) except in specified cases, to collect premium before assuming risk.

2. The insurers are also required to voluntarily submit to periodical inspections by the Controller of Insurance.

3. Annexed hereto are the form of voluntary undertaking to be given by the insurers and brief details of various requirements.

4. The Executive Committee has desired that the new stipulations as above imposed on the insurers be made known to the insuring persons, soliciting their co-operation in creating healthy market conditions and thus enabling insurers to abide by the directives of the Committee. Needless to emphasize here that the well-being of the Insurance Industry will in the long run be to the advantage of the insuring persons whose needs it caters to. I have, therefore, to request you to kindly bring this to the notice of your members and do your best to extend a helping hand in making the new measure a success.

### FORM OF UNDERTAKING

The Board of Directors of .....  
(name of the company)

hereby give an undertaking to the Chairman of the Executive Committee of the General Insurance Council of the Insurance Association of India to—

- (a) afford all necessary facilities for such inspection as may be directed by the Controller, as often and at such intervals as he finds necessary; the purpose of inspection being to establish that business is being conducted in accordance with sound business principles and practice and in accordance with law, tariff regulations and directives of the Executive Committee, and that a proper value is placed on assets and liabilities;
- (b) (i) abide by such disciplinary action (warning or fine not exceeding Rs. 1,000) as the Controller in consultation with an independent body to be set up by the Chairman of the Executive Committee may impose on the Company;
- (ii) abide by such disciplinary action, including termination of services against any of its employees or agents as the Controller in consultation with the said independent body to be set up by the Chairman of the Executive Committee, may direct: Provided that the disciplinary action to be taken against any employee should be such as the Company can lawfully take. If the Company experiences any difficulty, the matter may be referred to the Executive Committee;

- (c) provide in the Revenue Accounts furnished under the Insurance Act, 1938, the minimum departmental reserves specified by the Executive Committee;
- (d) ensure that the minimum information to be specified by the Executive Committee as required to be readily available in insurers' accounting systems is so available;
- (e) maintain an excess of assets over liabilities which is not less than the minimum security margin prescribed by the Executive Committee;
- (f) assume on or after first March 1957, no risk before the premium has been received by the insurer, except in such cases and under such conditions as are specified by the Executive Committee;
- (g) grant on or after 1st January 1957, no loan on personal security;
- (h) maintain such particulars and information regarding the administrative and development staff, premiums, commissions, claims and refunds as may be specified by the Executive Committee.

#### I. MINIMUM DEPARTMENTAL RESERVES

- (i) The minimum departmental reserves to be provided by way of unexpired risk reserve plus additional reserves, if any, shall be 50% of the net premium income in the year in Fire and Miscellaneous (including Aviation) Departments, and 100% in the case of Marine Cargo and Marine Hull business.
- (ii) Insurers whose reserves as on the 31st December 1956 are less than the above percentages shall increase the same each year by not less than 2% of the net premium income or the profit earned in the department whichever is higher, provided that on the 31st December 1956 they shall maintain not less than 42% in Fire and Miscellaneous Departments, 52% in respect of Marine Cargo and 100% in respect of Marine Hull business. In the case of Country-craft insurers, the Controller of Insurance may lower these percentages to the extent he deems fit.
- (iii) The Controller of Insurance may relax the above requirement and fix lower percentages in individual cases for any particular year if undue hardship will otherwise be caused.

## II. MINIMUM SECURITY MARGIN

- (i) Every general insurer shall maintain an excess of Assets over Liabilities of at least Rs. 5 lakhs or 10% of his net premium income, whichever is higher.
- (ii) The existing insurers who do not have this excess margin at present will be given time to come up steadily to this level by the 31st December 1959.
- (iii) In respect of insurers not having a share capital and operating in a restricted way, i.e. not doing business with the general public, the excess margin will be such as may be fixed by the Controller of Insurance.
- (iv) In the case of Country-craft Insurers, the excess margin shall be Rs. 1 lakh or 10% of the net premium income, whichever is higher, but such an insurer will be allowed to come up to this level by adding to whatever excess margin he holds as on 31st December 1956, at least Rs. 5,000 each year by way of additional margin. The relevant sum for the year or 10% of the premium income in that year, whichever is higher, will be the minimum margin for such an insurer.
- (v) The minimum margin which has to be maintained by an insurer (Indian or non-Indian) will be assessed in respect of his world business.
- (vi) In valuing the assets a proper value will be placed on all the assets. Generally the realisable assets not realised within a certain period and assets of unrealisable character shall be excluded. Furniture, Fixtures, Dead Stock and Stationery shall also be excluded.
- (vii) In valuing the liabilities, Share Capital plus other free reserves shall not be included. All other liabilities like provision for dividends and unpaid dividends, reserves for unexpired risks upto a specified percentage of the net premium income, outstanding claims, amounts due to insurance companies, sundry creditors and provision for taxation, etc. shall be included.
- (viii) A statement of Assets and Liabilities and the values placed thereon, certified by the auditors of the insurer, shall be submitted to the Controller of Insurance along with the Annual Accounts.

### III. MINIMUM INFORMATION AND PARTICULARS TO BE MAINTAINED BY INSURERS

The following information should be readily available:

(A) A summary of the Numbers of Policies, Renewal Documents, Endorsements, Refund Endorsements issued by a company at each of its units, every month, showing the premium income derived under each head.

[Each insurer must have in force an adequate checking machinery to control the issue of the above documents and to ensure that no risk is assumed without being recorded properly at the Unit concerned. Every document used for the assumption of risk should be serially numbered and a proper account of all such documents issued to Development Personnel authorised to commit the company on a risk should be maintained.]

(B) An analysis of a company's premium income for all Indian business, giving Direct Premiums, Facultative and Treaty Reinsurances (incoming and outgoing) and corresponding commission debits and credits.

[The checking machinery must ensure that premium payments provisions of the Code of Conduct are properly observed and that there is daily reconciliation of premiums due from a Unit and premium collected at each such Unit. The Head or Controlling Office should also maintain a daily record of premium credits and corresponding cash receipts and outstanding balances in respect of each Unit together with a final reconciliation of outstanding balances at the end of the following month. The Checking Machinery should exercise proper control over payment of refunds on account of alterations or cancellations of risks and the co-related commission recoveries to be made from the agents. It should also ensure that all refunds exceeding Rs. 500 are made by means of crossed or order cheques drawn in favour of insured only. All transactions relating to Reinsurances should be properly recorded and the insurers concerned should exchange confirmatory accounts six monthly.]

(C) A summary of the number of claims incurred by an insurer in India with corresponding payments by departments, each group further sub-classified accord-

ing to whether payment was made on the basis of a Surveyor's report or otherwise.

[The checking machinery should exercise effective control over the settlement of claims and see that claims are paid against registered policies only and there is either a Surveyor's report or some other independent evidence of loss in support of each claim. Claims over a certain sum, say Rs. 5,000, should be sanctioned with the previous sanction of the Head or Controlling Office concerned and all claims exceeding Rs. 500 should be paid by crossed or order cheques. Details of all claims paid in India and those paid outside India in respect of policies issued in India including *ex-gratia* payments, outstanding claims and all essential recoveries made or to be made in respect of Salvage, General average and Subrogation, etc. should be readily available.]

(D) Classification of Expenses of Management under the various Heads as specified in Form 'B' under the present Code of Conduct, and records of Expense ratios under various Heads to "Gross Direct Premium" and to "Volume of Work".

[All expense entries should be supported by a proper voucher and all payments except petty ones should be made by crossed and order cheque. A separate record should be maintained of all travelling and entertainment expenses. There should be a register in each Controlling Unit of salaries and other details of the employees. This record should be separate for Inspectors, Organisers and all other persons on the development side including Regional Managers, Branch Managers/Secretaries and should include *inter alia* details of each individual's capacity to develop the insurer's business. A performance record for each development personnel should also be maintained showing his area of operation, his remuneration and performance and details of the organisation working under him and the analysis of business client-wise for clients paying premiums over a stipulated amount.]

#### GENERAL

All investments and title deeds of the insurer's own properties must be deposited and held in safe custody with

Scheduled Banks. Information regarding withdrawals and deposits from safe custody should be readily available.

Each insurer shall maintain details of the operations of each unit, showing the Premium Income, Claims and Commission by Departments, and Development and other Administrative Expenses for the Unit as a whole.

#### IV. PAYMENT OF PREMIUMS

1. No risk shall be covered unless and until the insurer has collected the premiums.

2. A risk may however be covered if there is a Bank Guarantee sufficient to cover the premium in respect thereof or there is sufficient deposit with the insurer to the credit of the Insured or the agent to cover the payment. The premium in respect of risks assumed in a calendar month should be paid before the end of the next succeeding calendar month.

3. In the case of risks for which premium can be ascertained in advance, risk shall be deemed to have commenced—

(a) on the date on which the premium has been delivered in cash or by cheque to the insurer or to his agent duly authorised in that behalf;

(b) on the date on which the premium has been remitted to either of them in cash or by cheque by either registered post or under a letter with certificate of posting, or by money order.

N.B.:

A (i) It is agreed that the agent shall deposit the premium so collected with the insurer within 24 hours of the collection, excluding bank and/or postal holdings.

A(ii) In case of a request for insurance accompanied by a cheque or a money order, it will be permissible for the insurer to retrospectively commence the risk from the date of posting the premium.

4. In the case of Declaration policies, premiums shall be deemed to have been paid if paid on the basis of 75% of the sum insured. The balance of the actual premium shall be calculated and collected within 60 days from the dates of expiry of policies.

5. The legitimacy of Bank Clauses shall be acknowledged, Banks being held responsible for payments of any premium that may become due.

6. In the case of insurance policies issued on the basis of adjustable premiums, such as Workmen's Compensation and Cash-in-Transit insurances, the payment of a provisional premium based on a fair estimate shall constitute due payment of premium. Final adjustments of premium shall be made within 60 days from the dates of expiry of policies.

7. In the case of annual insurances 'connected with aircraft hulls' and 'connected with marine hulls' facilities for delayed payment, or by means of instalments not exceeding four in number and on the basis of an approved clause, shall be allowed at the discretion of the insuring company, provided such clause is endorsed on the policy. Any adjustments that may be required where risks are rated on a Minimum and Maximum rate basis shall be made within 60 days of dates of expiry.

It shall be legitimate to grant short period covers on the above risks on a held covered basis, provided the premium or additional premium in respect of risks assumed in a calendar month are paid by the end of the next calendar month.

8. In the case of annual declaration policies 'connected with aircraft hulls' and 'connected with marine hulls' any additional premium in adjustment of deposit premium shall be paid within 60 days from the dates of expiry of policies.

*N.B.—The words 'connected with' means all ancillary insurance normally attaching.*

9. In the case of policies issued for long terms, such as contract performance Bonds or Guarantees, Contractors' "All Risks" policies, Machinery Erection policies and the like, it shall be legitimate to stagger the premium, as may be necessary according to custom, over the period of the cover, provided that the first equated instalment is higher than any other instalment by at least 5% of the total premiums payable and each instalment shall be payable in advance. Where the premiums are payable by declarations, they shall be deemed to be duly paid if paid within 15 days from the dates of receipt of declarations.

10. In case of Schedule and Consequential Loss Policies, it shall be legitimate to collect premiums before the dates of inception or of renewal of risks on the basis of the previous year's premiums. Any adjustment that may require to be made shall be made within 60 days from the dates of expiry.

11. In the case of Marine Covers other than Hulls,

- (a) in the case of inland shipments and transit risks, no relaxation is permissible, except that for open policies in respect of seasonal crops such as Tea, the payment of a provisional premium based on a fair estimate shall constitute due payment of premium. Final adjustment of premiums shall be made within 60 days from the date of expiry of the open policy.
- (b) In the case of exports overseas, premium shall be paid within 15 days from the date of sailing of the overseas vessel.
- (c) In the case of imports, premium shall be paid within 15 days from the receipt of the declaration in India from the Insurer's representative overseas.

N.B.—For the purpose of Bank Guarantee, the premium shall be regarded to be due on the following basis:—

- (i) in the case of exports overseas, premium shall become due from the date of the sailing of the overseas vessel.
- (ii) in the case of imports, the premium shall become due on the date of the receipt of the declaration in India from the Insurer's representative overseas.

12. In cases where the exact premium for a risk cannot be ascertained without reference to Head Office or to the Tariff Committee, or for any reason, the risk may be assumed if there is a deposit made by the insured with the company at a suitable rate not less than annas four per cent. The premium must be adjusted within a month if it involves a reference to the Tariff Committee, otherwise within a week. The period for adjustment of premium shall be deemed to commence from the date on which the rate is advised to the insurer by the Tariff Committee.

13. In the case of coinsurances the premium shall be deemed to have been duly paid if paid on the full insurance to any one of the co-insurers.

*Letter No. 1049 dated 8th May 1957 from Chamber to the Secretary, Executive Committee, General Insurance Council.*

I am desired to acknowledge the receipt of your letter No. 105-IF(27)/56 dated 2nd April 1957, forwarding copies containing additional requirements under the code of conduct for insurers carrying on general insurance business in India.

As desired therein steps are being taken to bring the same to the notice of our members.

In doing so, however, they cannot help pointing out that before finalising and bringing into force the requirements which, as admitted in your communication, are "of a far-reaching nature", an opportunity should have been given to organizations like the Chamber to examine and express their considered views on the same. Such a course, it is felt, would have considerably assisted the task of the Council in formulating and enforcing the requirements with reference to the matters to which they relate, in a manner as to obviate chances of avoidable difficulties to the various interests connected with the general insurance business. In this connection, a reference may be made to the requirement which prescribes that the insurance risk should commence only on the payment of premia. Evidently, the practical difficulties involved in ensuring that all the connected interests adhere to this requirement, could not have been sufficiently appreciated. You are well aware of the disheartening feeling created among the members of the commercial community desiring general insurance cover, as also among the brokers and agents who act as a link between the insurer and the insured and render useful service in facilitating the placement of business with general insurers, by the proposal in this regard. It would appear that your Council has made an effort to meet the difficulties on this score by incorporating the additional provision that "a risk may however be covered if there is a Bank Guarantee sufficient to cover the premium in respect thereof or there is sufficient Deposit with the insurer to the credit of the insured or the agent to cover the payment. The premium in respect of risks assumed in a calendar month should be paid before the end of the next month succeeding calendar month".

This is merely to illustrate the point that the procedure of prior consultation would have very much assisted the task of the Council in formulating a condition, which while ensuring the achievement of the objectives with which it has been enforced would, at the same time, not result in creating practical difficulties in its implementation.

Now that the matter is finalised and the additional requirement put into force, my Committee at this stage can only place on record their feeling as above on the subject. They are equally keen to see that the General Insurance business in the country is placed on a sound footing and that for this purpose

efforts are made to eradicate any malpractices prevalent in the industry. They only want to emphasize that this object could be better achieved by a process of education and persuasion and even when it is felt that the purpose could only be served by enjoining upon the various interests connected with the General Insurance business, obligations of a far-reaching character, representative organizations of trade and commerce could with advantage be consulted in advance so that the ultimate scheme decided upon for enforcement is free from the possible criticism that in the effort to eradicate the malpractices, measures are being enforced which, perhaps, would render the growth and development of general insurance business difficult.

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## APPENDIX 45

### Difficulties under the Town Planning Act

*Letter No. 2627 dated 9th December 1957 from Chamber to the Government of Bombay.*

The demand for housing accommodation in Bombay has been increasing to a great extent and it is an obvious fact that construction activity is not commensurate with the existing and prospective needs. It is, therefore, absolutely imperative that such steps should be taken as may be conducive to the creation of conditions whereunder building construction in the City receives an effective impetus.

In this connection, it has been represented to the Committee of the Indian Merchants' Chamber that the different planning schemes framed in pursuance of the Town Planning Act, 1954, and the various restrictions stemming therefrom as also the practical difficulties experienced in complying with the requirements thereunder are, in a large measure, acting as a serious dis-incentive to fresh building construction activity in Bombay. My Committee consider that a stage has been reached, when this aspect of the problem requires to be thoroughly examined, with a view to removing such obstacles as may be coming in the way of construction and as are not calculated to give a sufficient impetus thereto.

Before dealing with the difficulties in detail, my Committee would like to make it clear that while they are entirely one with Government in regard to the broad aims and principles of an orderly and regulated development of the different towns in the State in accordance with modern ideas of urbanisation

and the requirements in the matter of sanitation, drainage, etc., the problem created by the influx of an ever-increasing number of people into industrial cities like Bombay and the consequent abnormally growing demand for residential accommodation has to be prominently borne in mind. Further, extension of the planning schemes to areas which have already registered a measure of development cannot be made, without taking into special account the conditions and features obtaining therein. The Town Planning Act is an all-State legislation. Though the administration of the measure may be carried on in terms of the schemes evolved by the different local bodies like Municipal Corporations and Boroughs, such schemes are naturally prepared in conformity with the principle contained in the Act. Application of uniform standards and conditions creates practical hardships in so far as these standards and conditions are sought to be enforced in towns and cities which have already undergone a fair degree of development. An instance in point is the City of Bombay; it is well known that, excepting areas covered by the far-flung suburbs, the areas round about and not distant from the centre of the City have already witnessed a programme of development, and the application of the set ideas of town planning in terms of the principles laid down in the main Act has not been found to be helpful from the point of view of having a further intensive building activity in such areas.

The main points of difficulty and restriction, which have been placed before my Committee, may be referred to: The Town Planning legislation, which enables the freezing of land for purposes of regulating the space upto or within which building construction could take place, militates against more bigger and cheaper buildings, particularly in the context of the existing urgency and need for more residential accommodation. The Rules framed by the Municipal Corporation in this behalf have been hampering progressive development of the City, inasmuch as they require two-thirds of the building site being kept vacant allowing only one-third thereof to be built upon, they restrict the height of buildings to the ground and three upper floors only, i.e. only 48 ft. as against the normal 72 ft., disregarding the possibility of providing additional floors by suitable extra arrangements such as set-backs, etc. The end result of the Municipal Rules is that the building potential of the available plots of land is considerably constricted.

Again, the Town Planning Rules come directly in the way of development of a plot by its owner, for a number of years continuously, do not permit of the full development of existing

buildings for a long time so as to augment their accommodation capacity, and render repairs to houses already in existence very difficult. Further, the impact of the betterment charges sought to be levied falls entirely on the owners of property, who are not permitted under the existing position to recover the same from the occupiers; this involves a financial burden on property-owners at a time when they are obliged to bear several other imposts. The benefits of such betterment are no doubt shared by the residents of the area. Therefore, in fairness and equity, property-owners should be allowed to recover such betterment charges from the occupiers concerned. If found necessary from the viewpoint of administrative convenience, it may be so arranged that the entire charges be recovered from the owners and they, in turn, be authorised to recover the same from the occupiers on a proportionate monthly basis till the amount is recovered.

The Committee of the Chamber have given their careful thought to the above aspects. They feel that the Town Planning Scheme and the rules and regulations thereunder enforced, besides not being conducive to the progressive and early development of the City, come directly in the way of giving an impetus to fresh construction activity in Bombay so essential at the present juncture. The question of the development of the City in its varied aspects should be thoroughly gone into by a high-level Committee. In the light of the findings and recommendations of such a Committee, Government should proceed to frame a separate Town Planning Act for the developed parts of the City of Bombay and similar other Cities in the State, in the place of the present omnibus legislation. Such a Committee, it is felt, will be able to weigh the various factors and properly balance the ideas concerning town planning with the overall need for a substantial addition to housing accommodation in the City, so that suitable conditions may be created for a fuller realisation of the latter objective without any significant or material detraction from the requirements relating to Town Planning.

The Committee of my Chamber request that Government will be pleased to give their earnest consideration to the points and suggestions urged in the foregoing paragraphs. In particular, they suggest that Government should appoint an Expert Body to examine the entire question of development of the City on modern lines, after taking into due account the conditions obtaining in this developed City and the future needs, and that the personnel of such a body should include representatives

of interests directly concerned. Government may thereafter frame a separate Town Planning Act based on such expert scrutiny.

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## APPENDIX 46

### Cost Consultant Practice in India

*Letter No. 282 dated 31st January 1957 from Chamber to the Ministry of Finance, Government of India.*

The attention of the Committee of the Indian Merchants' Chamber has been drawn to the need for patronising the specialised profession of Cost Consultants in India by utilising increasingly the services of Indian firms of Cost Consultants and Cost & Work Accountants in the undertakings controlled and managed by State and Central Governments. There are a number of reputed Indian firms operating in India for over a decade who have acquired qualifications in both Indian and English systems of Cost Accounting whose services are not adequately made use of by Government. On the contrary, instances have been brought to our notice where a certain foreign firm established in India only a few months back has been given a number of assignments by the Government. My Committee have, on more than one occasion, represented that in all fields of activity, Government should give greater and greater encouragement and opportunities of service to Swadeshi enterprises as opposed to foreign enterprises and only in cases where indigenous enterprise is lacking in skill, efficiency and preparedness or in quality should the Government look to foreign interests to fulfil the need. It is also the declared policy of Government to show a preference to and encourage Swadeshi goods and services. This policy of encouraging Swadeshi services has been increasingly put into effect in the utilisation of services like banking, insurance, etc. My Committee, therefore, earnestly submit that in the matter of giving assignments to Cost Consultants and other professional services also, Government would be guided by the above larger policy of Swadeshi support. Moreover, my Committee wish to point out that, in this particular case, the advantages of appropriateness and suitability are more in favour of Indian firms of Cost Consultants, inasmuch as they would be able to render better justice to the job because of their familiarity with Indian conditions of manufacturing and organisation and management as also their mastery over the foreign system of Cost Accounting practice. Foreign firms, familiar only with conditions prevail-

ing in England, which are quite different from manufacturing conditions in India, will not be able to do equal justice. Apart from the salutary principle of encouraging Indian professional services, even conditions of eligibility and greater usefulness emphasize the point that Indian firms of Cost Consultants and other professionals should be extended greater patronage and preference in the assignments granted by Central and State Governments.

My Committee hope that Government will give favourable consideration to the above request.

*Letter No. 10(4)-INST/57 dated 28th February 1957 from the Government of India to Chamber.*

"I am directed to refer to your letter No. 282 dated the 31st January 1957 on the above subject and to say that Government have noted the request of your Chamber that the services of Indian firms of Cost Consultants should be increasingly utilised in the undertakings controlled and managed by the State and Central Governments. Other things being equal, it is the general policy of Government to give preference to Indian enterprise in the professional field, but I am to point out that as the profession of Cost Accountancy is still in its infancy in this country, Government can visualize having to allow use of the services of foreign firms of Cost Consultants in appropriate cases where found necessary.

I am however to add that this Department is not aware of what assignments have been given to the foreign firm of Cost Consultants referred to in your letter and by which Government agency.

#### APPENDIX 47

#### Shifting of Factories from the City Limits

*Letter No. 285 dated 1st February 1957 from Chamber to the Government of Bombay.*

The Committee of the Indian Merchants' Chamber are given to understand that the question of evolving a long-term policy in regard to the location of Industries in Greater Bombay is under the active consideration of Government and that for the purpose thereof a Conference between the representatives of Government, Municipal authorities and other connected interests is being held shortly. While the Committee, no doubt,

appreciate the importance of evolving a proper programme for location of industries in the future, they would, at the same time, like to urge that the practical realities facing the industries, which have already been established and developed in certain areas, have also to be prominently taken into account.

In this connection, they would particularly like to urge for the earnest consideration of Government the position of the variety of small-scale industries that have been developed and traditionally established in Khumbharwada and similar areas. As the authorities are, no doubt, aware, in this area, a variety of industrial operations are being carried on by small units for a long period of time and if, as a result of any new programme or policy evolved by the authorities, they are displaced from the locations in question, there would not only be serious disorganisation in their own activities, but also in the activities of the buying and consuming interests whom they serve.

Before, therefore, any final programme in regard to the location of industries for the future is evolved and drawn out, the Committee submit that this aspect should be prominently taken into consideration and at any rate representative organisations of industries like this Chamber and other organisations should be given an opportunity to place before Government their views and suggestions in the matter.

The Committee take this opportunity of suggesting that Government should convene an informal conference of all the interests concerned before finally taking any decision in the matter.

*Letter No. MGR/742 dated 18th June 1957 from the Municipal Commissioner to Chamber.*

I refer to the meeting in my room today, at which your representative was present, when the question of the location and shifting of factories was discussed. I then stated, and hereby record for your information, that the following constitute the approach of the Corporation to the problem:

- (i) In respect of old establishments, shifting from existing unsuitable locations will be insisted upon only after they have been offered alternative accommodation, if they are not able to find it themselves.
- (ii) In deciding that an undertaking must shift sooner or later, the considerations that will be taken into account will be the nature of the manufacturing pro-

cess, the nuisance, if any, that it creates, the investment involved, the nature of the surrounding locality and the future needs of orderly development. These considerations will not apply in the case of recent concerns established either without permission or despite objections taken *ab initio*.

- (iii) The Corporation will, wherever possible, try to develop industrial estates for the eventual re-siting of objectionable concerns. Government is also taking steps in the same direction; and some initiative has been taken by industrial associations.
- (iv) You may represent specifically the cases of your members in respect of whom it is felt that the Corporation's decisions as to the nature of the permit issued or proposed appear harsh or improper. All such cases will be personally reviewed by me after spot inspection.

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#### APPENDIX 48

##### **Subsidised Industrial Housing Scheme—Difficulties in obtaining Vacant Possession of Houses constructed under the Scheme**

*Letter No. CSH-2053/50363-F dated 12th October 1957 from the Government of Bombay to Chamber.*

I am directed to refer to the correspondence resting with your letter No. 3027 dated the 1st January 1957 on the above subject and to state that after further consideration of the matter in consultation with the Government of India, it is not considered necessary to alter the decisions already communicated to you under Government letter, Industries and Co-operation Department, No. CSH-2056/4929-C, dated the 8th November 1956.

*Letter No. 2338 dated 1st November 1957 from Chamber to the Government of Bombay.*

I am desired to acknowledge receipt of your letter No. CSH-2053/50363-F dated the 12th October on the above subject.

My Committee regret very much to note that Government do not think it necessary to alter their earlier decision. While Government are on the one hand intensifying their policy regarding industrial housing and towards that end taking all

steps in the direction of compelling employers to provide accommodation to their employees, it is a matter of great concern that Government do not, on the other hand, appreciate the difficulties inherent in the situation arising out of the refusal by employees to vacate the premises occupied by them on their discharge from service. As a result of such action on the part of the employee the employers would in addition to being put to the trouble and expense of taking the necessary proceedings in a Court of Law for evicting the employees concerned be required to provide accommodation for those who may be engaged to fill in the places of the discharged or dismissed employees. Thus an employer would not only be required to provide the necessary accommodation for the employees in his service but also would have to keep ready additional accommodation to meet the contingency enumerated above.

The decision arrived at by Government to the effect that no special provisions are necessary for enabling employers to obtain vacant possession of premises occupied by employees who have been discharged or dismissed from service appears to have been based on the presumption that such cases would be very few and far between. As stated in our letter of the 1st December last, my Committee are unable to agree with the above presumption. In any event, with the increase in the tempo of Industrial Housing the number of cases requiring eviction of employees is bound to increase and my Committee, therefore, feel that it would not be proper or justifiable to refuse to provide for any remedy for difficulties of this nature.

My Committee, therefore, once again request Government to reconsider the whole position thoroughly as the matter is one of prime importance to the industrial employers and provide for a suitable remedy to meet the situation.

*Letter No. CSH-2053/150005-F dated 14th December 1957  
from the Government of Bombay to Chamber.*

I am directed to refer to your letter No. 2338 dated 1st November 1957, on the above subject, and to state that the various points urged in your letter have been carefully considered by Government and it sees no reason to reconsider the decision already taken.

**APPENDIX 49****Accommodation Control**

*Letter No. 2390 dated 7th November 1957 from Chamber to the Government of Bombay.*

The attention of Government has been prominently drawn in the past to the difficulties resulting from the control exercised by Government on accommodation under the Bombay Land Requisition Act, 1948. The control was instituted to serve the needs of an emergency which now no longer exists. As a matter of fact, the practice of allotting accommodation on the basis of requisitioning for private residential requirements has been discontinued and such powers are now only in vogue for the purpose and in respect of Government's own requirements and the requirements of Government and public servants. The control, therefore, is now serving the needs of a comparatively small number of Government and public servants and in that view of the case a pertinent query has been raised whether Government are justified in incurring considerable expenditure for the maintenance of the organization in question.

According to the present position, the accommodation control is to remain in force till 31st December 1958 unless Government choose to notify prior to that date that the said Control Order will continue to be in force for a further specified period.

The Committee of my Chamber wish to take this opportunity to draw Government's attention to this aspect and to reiterate once more their suggestion for the removal of the accommodation control and in the light thereof to urge that Government will announce at an early date their decision to discontinue control on accommodation in the City of Bombay in any case after 31st March 1958.

**APPENDIX 50****Exemption from Excise Duty of Rectified Spirit used for Research Purposes**

*Letter No. 2277 dated 21st October 1957 from Chamber to the Revenue Department, Government of Bombay.*

The Deccan Sugar Factories' Association, Bombay, a body affiliated to the Chamber, have drawn the attention of my Committee to the communication addressed by them to Government,

urging exemption from Excise Duty of rectified spirit consumed by Sugar Industries for purposes of Research. It would appear that, in response to an application for such exemption made by one of their member industries to the Collector of Poona, they have been informed that "Government has decided not to extend the concession of duty-free supply of rectified spirit to industries which are instituted by a private enterprise".

Industrial and scientific research has been assigned an important place in the plans of economic development of the country, and Government have been in recent years towards that end setting up laboratories or institutes to carry on research respecting the techniques and processes of production in different industries. Similarly, several industrial establishments have been running their own research wings or departments, and the techniques evolved out of the results of their research activities have been availed of and adopted by other manufacturing and processing units in the industries concerned. It, therefore, stands to reason that research operations carried on by institutions, irrespective of whether they are sponsored by Government or the private sector of industry, should be afforded all reasonable assistance and facilities. In the present case under reference, Rectified Spirit is required by a Sugar Industry so as to enable it to do research work in the matter of sugar manufacture, utilisation of by-products, etc., and the Committee of my Chamber strongly feel that the factory in question should be extended the facility of duty-free supply of Rectified Spirit for the purpose.

I am to request that Government will be good enough to give their earnest consideration to the matter and issue instructions for the exemption from Excise Duty of Rectified Spirit consumed by Sugar Industries for research activities.

*Letter No. RTS.1057/141915-J dated 13th November 1957  
from the Government of Bombay to Chamber.*

With reference to your letter No. 2277, dated 21st October 1957, on the subject mentioned above, I am directed to enclose herewith a copy of Government letter No. RTS.1057/124371-J dated 4th November 1957, addressed to the Deccan Sugar Factories' Association, Bombay. In the circumstances stated therein, it is regretted, the request for the exemption from Excise Duty on rectified spirit consumed by Sugar Industries for research activities cannot be considered.

(*Enclosure to above letter*):

With reference to your letter No. DS/18/440 dated 5th August 1957, I am directed to state that the question of granting the concession of duty-free supply of rectified spirit to individuals and institutions was considered in 1951 and 1952. Government then decided that alcohol used in *bona fide* research by the educational and research institutions should be exempted from the payment of Excise Duty, but that the position re: established industries was quite different in that, while *bona fide* educational institutions, etc. have no profit motive whatsoever, it is reasonable to assume that industries or the research laboratories maintained as adjuncts to established industries are motivated by a profit motive. Nor is there normally the position that the results of research made in such industries or laboratories are promptly available to the general public or that students interested in research from an educational or scientific angle have access to such laboratories.

In any case, the refusal to grant this concession is not likely to lead to such expenditure on the part of established industries as would hamper their work from the financial point of view. Government has reviewed this matter and has come to the conclusion that the decision mentioned above needs no modification.

It is regretted, therefore, that your request that the concession of duty-free supply of rectified spirit required for research purposes should be extended to the member-factories of your Association, cannot be complied with.

## APPENDIX 51

### Provision for Arbitration in Supply Contracts

*Letter No. 595 dated 6th March 1957 from Chamber to the Ministry of Works, Housing & Supply, Government of India.*

The attention of the Committee of the Chamber has been drawn to the revised provision for arbitration in supply contracts in terms of which all disputes arising out of contracts entered into on the basis of invitation to tender issued by the Director-General of Supplies and Disposals, would be referred to the sole arbitration of the Director-General of Supplies and Disposals or some other person appointed by him. The Committee wish to point out that in taking such a decision and requiring any dispute or difference being referred to the sole

arbitration of the Director-General of Supplies and Disposals or his nominee, Government have overlooked the psychological effect that such a provision would create in the minds of the tenderers. Even under the previous position where both the parties to the contract were entitled to nominate an arbitrator, the normal experience was that from the Government side a person in the employment of Government was appointed as an arbitrator. This created the feeling that a salaried employee was not likely to be free from the psychological influence of that position in the discharge of his function when he acted as an arbitrator in a dispute in which one of the contestants was his own employer, viz. Government. As you are aware this had led to a demand for appointment of an arbitrator who would be independent of Government and for this purpose it was suggested that Government should set up a panel of arbitrators composed of persons having a background of experience and legal acumen necessary for the purpose.

The new provision regarding arbitration of supply contracts instead of taking note of this point of view, has gone a step further in that a contractor desiring to settle his dispute, arising out of the supply contract, by arbitration, is necessarily required to forego his right to appoint the arbitrator from his side. The new arrangement again lends itself to serious objection in that it has provided that arbitration by a Government servant or by a person who had to deal with matters to which the contract relates or by a person who in the course of his duties as a Government servant has expressed on all or any of the matters in dispute or difference cannot be objected to. This position, my Committee believe, would lead to a general feeling of diffidence in the minds of the contractors about their case receiving fuller consideration in the arbitration proceedings.

It may be well argued that a tenderer who is disinclined to refer dispute or difference to the sole arbitration of the Director-General of Supplies and Disposals, is free, in terms of the conditions of the contract, not to agree to such a position. In that event, however, he forgoes the right and facility of settling a dispute by arbitration and has to depend on the long drawn out process of getting it settled in a court of law. Government have notified that in the event of a tenderer not agreeing to the sole arbitration by the Director-General of Supplies and Disposals or his nominee, the relevant contract would not be subject to the provision of the Indian Arbitration Act, 1940, but would be subject to the ordinary law of the land.

My Committee therefore request Government to take the above aspects into consideration and having regard to the overriding need for imparting a feeling of confidence in the contractors, to review the arbitration arrangement in respect of such contracts in such a manner as would restore the right of the contractor to nominate an arbitrator from their side. My Committee request that Government will give early and earnest consideration to the suggestions made therein.

*Letter No. 1632-PI/57 dated 20th March 1957 from the Government of India to Chamber.*

I am directed to refer to your letter No. 595, dated the 6th March 1957, on the above subject, and to say that the Stores Purchase Committee's recommendation for suitably modifying the existing clause 21 of the General Conditions of Contract governing Department of Supply contracts (contained in form WSB. 133) has been fully examined and considered by Government. As a result, and after a review of the working of the existing clause, it has been decided to delete this clause and to substitute a new clause.

It may be mentioned, in this connection, that there is already a provision regarding sole arbitration by the Head of the Organisation or his nominee in the Disposals, C.P.W.D. and Food Ministry's contracts.

2. As regards the apprehension of suppliers about their cases not receiving fuller consideration of the Government sole arbitrator, who has already expressed his views on all or any of the matters in dispute, it may be stated that as a sole arbitrator he would act in his judicial capacity (and not in his executive capacity) and in the capacity he is expected to be impartial.

3. In the circumstances, the Chamber will appreciate that it is not possible to revise the arbitration clause.

*Letter No. 1063 dated 8th May 1957 from Chamber to the Government of India.*

I am desired to acknowledge the receipt of your letter No. 1632/PI/57 dated the 20th March 1957 on the above subject. My Committee have given careful consideration to the observations contained therein and I am now desired to address you as under:

In expressing your inability to accept the suggestion for a modification in the arbitration clause you have pointed out that

the provision has been incorporated as a result, and after a review of the working of the existing clause and after examining the recommendation of the Stores Purchase Committee on the subject. My Committee would like to invite Government's attention to this particular recommendations which suggested that what was necessary with a view to bring about in the then existing position was to remove the unfettered discretion enjoyed by the contracted parties in nominating their arbitrators. For this purpose it was recommended that the nominee of either of the contracted parties to the dispute should either be a person whose name is borne on the panel of arbitrators maintained by the Federation of Indian Chambers of Commerce & Industry or a person who has for not less than 10 years practised as an advocate of the High Court in India or held office under a Government in India or a combined experience of practice and judicial office. It was specifically recommended that the person so nominated should not in any way be interested in the matter to be arbitrated.

The provision for the sole arbitration of the Director-General of Supplies and Disposals or some other persons appointed by him evidently cannot be deemed to be in conformity with the recommendation of the Stores Purchase Committee. The provision as modified is, as my Committee have pointed out in their earlier communication, from the point of view of the suppliers, very unsatisfactory in that it altogether removes the right of the suppliers to nominate an arbitrator instead of placing some measure of restriction as recommended by the Stores Purchase Committee. Government again seem to maintain that the existence of similar provision in the arbitration clause of contracts of some of the other Ministries justifies the present modification of the arbitration clause in the contracts with the Directorate-General of Supplies and Disposals. In this connection, it may be pertinent to point out that the existence of such a provision in the arbitration clause of the contracts of some of the other Ministries of the Government of India has given rise to an element of serious dissatisfaction and the issue is being agitated for bringing about an improvement in the position so that the contractors would feel reasonably sure of receiving a fair consideration of their cases in the arbitration proceedings.

My Committee, therefore, once again request Government to review their decision in the matter in this regard and to restore the earlier position which conferred on both the parties of the contracts the right to nominate an arbitrator from its side; if any modification in the position is to be brought about it may

well be on the lines recommended by the Stores Purchase Committee that the person chosen by the contracting parties for being an arbitrator should conform to the conditions laid down by the Stores Purchase Committee, a reference to which has been made earlier in this communication.

An early reply is requested.

*Letter No. Pur-19/Recom. 105/55 dated 17th May 1957  
from the Government of India to Chamber.*

I am directed to refer to your letter No. 1063, dated the 8th May 1957, on the above subject, and to say that the revised arbitration clause provides for the tenderer to exercise an option at the time of submitting his quotations to reject this clause in which case there would be no provision for arbitration at all and the ordinary course of law for disputes, if any, in a Court of Law would prevail. It would seem that in considering the fairness or otherwise of the new clause as now adopted, you have not considered this option which can be exercised by a tenderer at the time he/they submits his/their offer, particularly as it has also been made clear that exercise of this option at the time of submission of tender would in no way act harshly on the tenderer if the offer is otherwise acceptable; to make this position clear a specific clause to this effect has been provided for in the invitation to tenders.

2. Clear instructions have accordingly been issued to the Director-General of Supplies and Disposals that acceptance or otherwise of the clause should not influence the decision of the tender. There can, therefore, be no question of the clause being treated as unfair, or in any way contrary to the directive principles of the Constitution.

3. As stated in an earlier communication, the new clause has been adopted by Government after most careful consideration and after a review of the working of the previous clause and an examination of the recommendation of the Stores Purchase Committee. It is felt, therefore, that the new clause should be given a fair and reasonable trial.

*Letter No. 1263 dated 1st June 1957 from Chamber to the  
Government of India.*

I am desired to acknowledge the receipt of your letter No. Pur-19/Recom. 105/55 dated the 17th May 1957 on the above subject. My Committee have given a very careful con-

sideration to the observations contained therein and they now desire me to address you as follows:

The reply would seem to suggest that in view of the fact that a contractor is given an option to go to a court of law in case he is not agreeable to an arbitration by the Director-General of Supplies and Disposals or his nominee, the revised position is not in any way unfair to a contractor. My Committee, however, would like to point out that they have all along been stressing that, even considering the option given to a contractor to go to a court of law, the revised provision regarding arbitration in supply contracts is not satisfactory. In this connection they would like to invite your attention to their following observations in their communication No. 595 dated the 6th March 1957 on the subject:

"It may be well argued that a tenderer who is disinclined to refer dispute or difference to the sole arbitration of the Director-General of Supplies and Disposals, is free, in terms of the conditions of the contract, not to agree to such a position. In that event, however, he forgoes the right and facility of settling a dispute by arbitration and has to depend on the long drawn out process of getting it settled in a court of law." Moreover as they have already pointed out in their earlier communication, it is inherent in any scheme of arbitration that both the parties to the dispute should have the right to nominate an arbitrator from their side and my Committee do not see any justification for the modification of the provision in a manner as would entitle the Director-General of Supplies and Disposals or some other person appointed by him to be the sole arbitrator for the purpose of resolving the disputes arising out of supply contracts.

They, therefore, once again request Government to review the position in the matter and to restore the earlier position which conferred on both the parties of the contracts the right to nominate an arbitrator from their side. As has been stated earlier, there may be scope for the modification of the position on the lines recommended by the Stores Purchase Committee. After a careful consideration of the position that Committee recommended that the contracting parties should be required to nominate an arbitrator who should be a person whose name is borne on the list of arbitrators maintained by the Federation of Indian Chambers of Commerce & Industry or a person having combined experience of practice and judicial office. My Committee do not see any reason why if any modification in the

earlier position was to be made the same should not be on the lines of the considered recommendation of the Stores Purchase Committee.

My Committee, therefore, once again request that Government will give due consideration to the views and suggestions contained herein.

*Letter No. Pur-19/Recom. 105/55 dated 12th June 1957  
from the Government of India to Chamber.*

I am directed to refer to your letter No. 1263 dated 31-5-57 on the subject mentioned above. The Government agree that the contractor should have the right and facility of settling a dispute by arbitration and should not have to depend on the long drawn out process of getting it settled in a Court of Law. All the same, it should be appreciated that the previous arbitration clause, far from enabling disputes arising out of contracts to be settled expeditiously so as to avoid the long drawn out process of getting it settled in a Court of Law was as cumbersome, and resulted in as long drawn out and prolonged a process as would have been the case had the matter been referred to a Court of Law. Further in making their recommendation, referred to by the Chamber in their above letter, the Stores Purchase Committee had also appreciated that the previous arbitration clause had not worked satisfactorily and in the general interests of Government or reputable suppliers.

It is therefore considered that the present arbitration system will provide inexpensive and speedy means for settlement of disputes, unlike the old system which mostly proved lengthy, cumbersome, expensive and tortuous, as explained above. As has already been pointed out, the sole arbitration system already prevails in case of Disposals, C.P.W.D., and Food Ministry's contracts and has worked well to the satisfaction of all parties.

As earlier stated, the recommendation of the Stores Purchase Committee and other points made by you were all very carefully considered by the Government. As a result it was felt that acceptance of such a recommendation would not remove the basic defects and weaknesses in the previous arbitration clause as shown up in its working and that, therefore, the revised clause as now adopted by Government was the best in the interests of all parties.

## APPENDIX 52

### Conditions governing the Contract of the Central Public Works Department

*Letter No. 2114 dated 1st October 1957 from Chamber to the Ministry of Works, Housing & Supply, Government of India.*

The Committee of the Indian Merchants' Chamber have received representations from interests concerned in regard to the difficulties experienced by them, as a result of the various clauses in the Contract Forms adopted by Government for the execution of Civil Engineering contracts.

It has been pointed out that the conditions of contract are one-sided, arbitrary and consequently are not serving the best interests of both the Government as well as of the contractors. These provisions, in main, relate to the powers vested in the Engineer-in-charge. Important powers, such as those relating to the interpretation of the various clauses of the contractors, specifications, drawings, quality of work, approval of materials and workmanship are vested in the Engineer-in-charge and his decision is final and binding on the contractors. The contractors have pointed out to my Committee as to how the vesting of the final authority in regard to decisions on such important matters would place them in a very difficult position, being not in a position to appeal to a higher authority. It has been suggested, therefore, that, with a view to bringing about an improvement in the position, Government should agree to modify the particular provision in such a manner as to entitle a contractor to refer the matter to the Chief Engineer for the purpose of a final decision, failing which to Arbitration, as laid down in the contract.

Another difficulty, to which attention of my Committee has been invited, is in regard to the inordinate delay experienced in many contracts in the matter of payment of Bills in respect of works executed by the contractors. Though it has been laid down that the payment is to be made within a particular time-limit, it is not paid accordingly; it has been mentioned that in some contracts there is no time whatsoever for making final payments with the result that the contractors are put to great hardship and are prevented from making use of their moneys for other purposes. It has, therefore, been suggested that the Contract Form should contain a specific provision laying down a time-limit within which the bills of contractors must be paid and this should be enforced.

Normally, under a scheme of arbitration, both the sides to a dispute should have the right to nominate Arbitrators. In the particular case, however, a dispute in relation to a particular contract is required to be referred to a single Arbitrator to be appointed by the Government from one of the Officers of the Same Department. In this connection, it may be pertinent to point out that in connection with contracts of the Director-General of Supplies & Disposals, upto now a provision existed whereby both the parties to the dispute were authorised to nominate an arbitrator from their side. Since recently, however, that position has been altered and the arbitration in regard to a dispute arising out of the contract is required to be referred to the Director-General of Supplies & Disposals or an Officer appointed by him in that behalf. My Committee have represented to Government disapproving of the modification and pointing out in particular that it was not fair that one of the parties to the dispute should not have a say in the matter of appointing the Arbitrator to whom the dispute is being referred for arbitration.

Similarly, in the case of contract for Public Works Department also my Committee suggest that the provision should be modified so as to confer on the contractors a right to nominate an arbitrator agreed to by both the parties. There shall be no more delay in the completion of arbitration proceedings by a single arbitrator agreed to by both the parties as in the case of a single arbitrator nominated by the Department. It may be argued that the unrestricted choice in the matter may lead to inordinate delay in the progress of arbitration proceedings and may ultimately defeat the very object which is sought to be served by seeking to settle a dispute through the machinery of arbitration. There may be some justification for this point of view but the remedy lies in restricting the choice of arbitrators from amongst the panel of arbitrators recognised by Government for the purpose. The Committee, therefore, request that the arbitration provision in the contract should be modified so as to confer on the contractor a right to nominate an arbitrator agreed to by both the parties in case of dispute arising out of contract with the Central Public Works Department.

My Committee in this connection would like to refer to the discussion on this aspect at the last meeting of the Purchase Advisory Council when it was agreed that the clause would be suitably modified so that, in event a dispute is referred to arbitration, the Arbitrator would be a Judicial Officer of long standing appointed by the Law Ministry.

*Compensation for delay on part of Contractors and on part of Department:*

Very often the contractors are not able to commence their work in relation to a particular project due to their not being able to obtain requirements which under the contract, Government is obliged to provide. The delay in the commencement of the work due to these reasons often places a Contractor in serious difficulties and monetary loss, e.g. the Contractor would not be able to commence his activities due to delay on the part of Government in fulfilling the obligations under the Contract such as Issue of Stores, Tools, Plants, etc. It has been suggested that a suitable provision should be made in the Contract Form for compensating the Contractors for the loss that might have been sustained by them in the circumstances referred to herein.

On occasions when a Contractor is not able to complete or execute the work undertaken by him in terms of the contract by the time-limit laid down for the purpose of that contract he would be liable to pay a penalty. The penalty for delayed completion of works is 1% per day upto a maximum of 10% of the value of the *whole work*. It has been suggested that the penalty should more appropriately to be completed and should not be based on the value of the whole work.

The Building Contractors have an important role in the economic activities of the country particularly having regard to the fact that large-scale building activities are under way, for the construction of housing, aerodromes and other projects, etc. under the Five-Year Plan.

The Contractors would be in a better position to function more effectively if some of the more difficult conditions of the contract under which they have to work are modified on the lines of the suggestions made herein.

In this connection, it may be pointed out that the Builders' Association of India, an Association affiliated to the Chamber, has been making repeated efforts since some time past, to get the terms and conditions of the contracts suitably modified. It is understood that the Government appointed a committee to go into the question. My Committee are, however, not aware of the findings of the Committee and the request of the Association was not entertained on the plea that the Report was meant for departmental use only.

The Government of India in the Ministry of Works, Housing and Supplies, it is understood, have held three periodical meet-

ings with representatives of the various contractors and their associations since 1954. As a result, Government had agreed to modify three conditions in respect of Clauses 2, 5 and 33—viz. the date of starting the work, the clause relating to extension of time and water charges on electrical works and have proposed some improvements in the existing rules of payment of Final Bill of undisputed amounts.

The Contractors have been agitating for so many years on the important issues of (1) arbitrary powers vested in Engineer-in-charge, (2) Arbitration, etc., etc., and no reasons have been advanced for not modifying or rejecting their suggestions.

My Committee request that the suggestions made by the Builders' Association of India to make the contract conditions fair and equitable to both the parties and particularly on some of the issues referred to herein should be given due and earnest consideration by the Government.

*Letter No. Cont.26(153) dated 18th October 1957 from the Government of India to Chamber.*

With reference to your letter No. 2114, dated the 1st October 1957 on the subject cited above, I am directed to say that various points brought out in your letter have already been carefully considered by Government and the reactions of Government have been conveyed to the Civil Engineering contractors and their Associations at various periodical meetings. For your information a statement showing in brief the reactions of Government is enclosed. I hope you will appreciate that Government have already given very careful consideration to various points.

As the Chamber is aware periodical meetings are held between the representatives of trade and Government with a view to promote mutual understanding and trust. The next meeting is likely to be held in the month of November/December and Government would welcome a representative of the Chamber attending the meeting. If the Chamber is interested a copy of the agenda for the meeting will be forwarded in due course.

#### STATEMENT

Points	Remarks
1. <i>Arbitrary powers vested in Engineer-in-charge:</i>	

Suggestion that the Engineer-in-charge should not be vested with important powers such as those relating to interpretation of various clauses, specifications, drawings, quality of work, approval of materials and workmanship.

The Engineer-in-charge have instructions that orders on various points should be issued after consulting the competent authority. If the contractors are not satisfied they may appeal to the senior officer.

Points	Remarks
2. <i>Payment of interim and final bills:</i>	
It should be provided in the agreement that running and final payments would be paid within specified time.	In the revised agreement that is proposed to be brought in force on the basis of the recommendations of Committee on Rationalisation of Contract, it is being provided that running bills will be paid monthly and undisputed items in the final bill will be paid within 3 months if the cost of work is less than 2 lakhs and 6 months if it is more than 2 lakhs.
3. <i>Arbitration:</i>	
The arbitration should be undertaken so as to accord on the contractor a right to nominate the arbitrator.	It is not possible to agree to change the existing arbitration clause whereunder disputes are referred to the Additional Chief Engineer and in case he is unable or unwilling to act as such, to one of his nominee. However, with a view to infuse a sense of confidence it has been decided that all arbitration cases would be dealt with by an independent officer appointed in the C.P.W.D.
4. <i>Compensation for delay on the part of Contractors and on the part of Department:</i>	
(i) A provision may be made in the Contract Form for compensating the contractors for the loss that might have been sustained by them for delays on behalf of the Government.	There is no provision in the agreement but Government would consider all the cases on merits.
(ii) Penalty for delayed execution may be levied with reference to the cost of work not executed within a scheduled time and not on the entire cost of work.	The point made out is kept in mind while deciding the case of penalty. The limits prescribed in the penalty are outside limits and the amount of penalty generally levied is within these limits.

*Letter No. 146 dated 20th January 1958 from Chamber to the Government of India.*

I am desired to invite reference to your letter No. Cont. 26(153) dated the 18th October 1957 regarding revision of contract conditions. My Committee have given careful consideration to the observations on the various points referred to therein and they have now desired me to address Government as follows:

*Powers vested in Engineer-in-charge:*

In regard to the point about the powers vested in the Engineer-in-charge, Government have observed that instructions

are in force that orders on various points should be issued after consulting the competent authority, and that if the contractors are not satisfied, they may appeal to the Senior Officer. In this connection, my Committee would like to point out that the very fact that, in spite of the procedure laid down for the purpose, contractors experience genuine difficulties in this regard had led them to suggest that there should be some provision in the contract form enabling a contractor to appeal to a higher authority in case he is not satisfied with the decision of the Engineer-in-charge. This aspect, therefore, it is requested may be further considered.

*Payment of interim and final bills:*

My Committee have noted that in the revised agreement proposed to be brought into force it is sought to be provided that running bills will be paid monthly and undisputed items in the final bill would be paid within 3 months if the cost of work is less than Rs. 2 lakhs and 6 months if it is more than Rs. 2 lakhs. While agreeing that the position as taken up by the Government is, by and large, satisfactory, they would only suggest that the payment of the undisputed items in the final bills should be required to be paid off within the shorter time-limit irrespective of the fact whether the value of the bills exceeds Rs. 2 lakhs or not.

*Arbitration:*

My Committee feel that the position as taken up by Government is entirely unsatisfactory. In the process of settlement of dispute through the Machinery of Arbitration every care should be taken to infuse a feeling of assurance in both the parties to dispute that they will all have opportunities for a full say in the matter. When, however, a dispute in relation to a particular contract is required to be referred to a single arbitrator by the Government, i.e. by one of the officers of the same Department, a contractor is bound to feel that his case has not received that consideration which it deserves only because of the fact that the arbitrating authority was a part and parcel of the wider departmental machinery in charge of the disputes forming the subject-matter of the arbitration. As they have pointed out in their earlier correspondence, in connection with the revised clause for arbitration in the supply contract, the Committee had consistently taken the stand that it was not proper that the arbitration in regard to a dispute arising out of the contract should be referred to the Director-General of Supplies and Dis-

posals or an officer appointed by him in that behalf. On representations from time to time Government would ultimately appear to have seen the force in the argument and agreed to modify the clause suitably so that in the event of a dispute being referred to arbitration the arbitrator would be a Judicial Officer appointed by the Law Ministry. My Committee urge therefore that the provision for arbitration re: disputes arising out of the contracts of the Central Public Works Department should also similarly be suitably modified.

*Compensation for delay on the part of contractors and on the part of Department, etc.:*

In regard to the point for compensation on the part of the Department, Government have observed that there is no provision for payment of compensation in such circumstances in the agreement but that Government would consider all cases on merits. My Committee would however like to reiterate their suggestion that Government should make a suitable provision in the contract form itself for compensating the contractors for the loss that might have been sustained by them due to delay in the commencement of work for reasons for which the Department itself might have been responsible.

My Committee note that Government intend to call a meeting of the representatives of the trade and that the next such meeting is likely to be held in the month of February. They suggest that Government will take this opportunity to have the above points discussed at the meeting with the representatives of the contractors and in particular will arrange to have the draft of the revised form sent to them in advance for consideration so that at the meeting in question the views expressed by them on the clauses of the revised contract form be taken into account before the said revised form is finalised.

My Committee request that Government will give their most careful consideration to the suggestions made herein.

### APPENDIX 53

#### Terms and Conditions of the Tenders issued by the Bombay Municipal Corporation

*Letter No. 2535 dated 25th November 1957 from Chamber  
to the Government of Bombay.*

Contractors desiring to participate in the tenders issued by the various purchasing organizations and agencies in connection

with the various requirements of stores and materials for Government Departments both Central and State as also public bodies like the Bombay Port Trust and the Bombay Municipal Corporation are in many cases required to furnish a sum of money as earnest money deposit at the time of submitting the tender. A successful tenderer on award of the contract is again required to furnish certain amount as security deposit. Firms who have made substantial deposits and those who are placed on the list of approved contractors and/or suppliers are also, it would appear, required to submit earnest money deposits. In the context of the increase in industrial and building activities in the process of the implementation of various schemes of development, naturally there is an increase in demand and the required materials and stores are therefore obtained by the purchasing agencies concerned almost on a continuous basis.

According to general practice these purchases are normally effected on the basis of tenders. A contractor, therefore, would require increasingly larger funds in order to continue his activities and to participate in the tenders issued by the various purchasing agencies. The amounts so furnished as earnest money and security are no doubt refunded whenever such refunds become eligible but very often it takes some time in actually obtaining the refunds after the same have become due. The funds of the suppliers are thus locked up for a considerable time and it is a real hardship particularly in the context of the financial stringency at present prevailing, that considerable funds should be immobilised for a long period of time in the shape of earnest money and security deposits furnished in respect of tenders in which a contractor participates.

The Bombay Municipal Corporation is a Body which effects purchases of its requirements of stores and materials on the basis of tender. According to the terms and conditions of the tenders issued by the Corporation, it would appear that contractors may have their names registered as approved contractors. For this purpose, however, they are required initially to deposit a considerable amount as standing deposit. Such registered contractors also, it would appear, are required to furnish earnest money deposit and security deposit along with each tender filled in by them. There are other requirements of a tender contract, such as the obligation to execute contracts on a stamp paper which implies a substantial burden of stamp charges, legal charges on account of the preparation of a contract, etc. which are also creating difficulties for the suppliers.

My Committee, in this connection, would like to refer to the terms and conditions on which tender purchases are made by the Director-General of Supplies and Disposals. According to these terms and conditions, registered suppliers are not ordinarily required to furnish any security deposit and even in cases of non-registered firms, there is a provision enabling the authorities to relax the security deposit clause on merits. This deposit where required has to be made on acceptance of a tender and no earnest money is required to be deposited at the time of the submission of the tender.

In this connection, my Committee would also like to refer to the fact that the Stores Purchase Committee in their report had generally stressed the need for securing uniformity in the purchase procedure by various purchasing agencies. Again, towards that end, Government of India in the Ministry of Works Housing and Supply proposed to forward copies of the general conditions of contract of the Directorate-General of Supplies and Disposals to the State Governments so that the State Governments and the other Public Bodies may, if they like, with equal advantage adopt the same terms and conditions in regard to the purchases made by them on the basis of tenders.

My Committee would, therefore, request Government to be good enough to give early consideration to this aspect in the light of the recommendation of the Stores Purchase Committee and in particular to take early opportunity to modify the relevant provisions of the Bombay Municipal Corporation Act so as to render it possible to alter the terms and conditions of the tenders issued by the Bombay Municipal Corporation in a manner as would obviate the difficulties of the contractors referred to herein.

#### APPENDIX 54

##### **Conditions governing the Tenders issued by the Bombay Port Trust**

*Letter No. F/CE.GE/172 dated 11th January 1957 from the  
Bombay Port Trust to Chamber.*

With reference to your letter No. 2866 dated 17th November 1956 on the above subject requesting this Administration to consider the grant of relief to tenderers/contractors in respect of earnest money and security deposits, I am directed to reply that this matter has been carefully considered by the Trustees on several occasions and it has been decided that it is not advisable

to exempt tenderers/contractors from the obligation of lodging earnest money and security deposits.

As regards earnest money deposits in respect of tenders, on representations from the trade, a system of permanent deposits of Rs. 2,000 against the earnest money required for tenders was introduced in 1954. Under this system any tendering firm may place a cash deposit of Rs. 2,000 with the Administration as earnest money to cover any number of tenders (except those relating to handling and bunkering of coal) under consideration at any time provided that no tender exceeds the value of Rs. 4 lakhs. This system of a comprehensive earnest deposit of Rs. 2,000 has gone a considerable way in relieving the hardships of the tenderers. If the system of earnest money deposits is completely done away with, this Administration would be exposed to the risk and inconvenience of indiscriminate tendering. Earnest money is accepted only in the form of cash, as acceptance of securities would involve an enormous amount of unnecessary clerical work.

In regard to security deposits, it has already been decided by the Trustees after due consideration of the issues involved that Bankers' Guarantee Bonds should not be accepted, due mainly to the legal difficulties in the way of enforcing such guarantees. In the interest of public funds, this Administration has to be protected in the event of default or failure on the part of a Contractor to perform his contract.

## APPENDIX 55

### **Speeches of the President and the Vice-President at Quarterly General Meetings**

*Speech of Shri Naval H. Tata, President, at the First Quarterly General Meeting of the Members of the Indian Merchants' Chamber, on Monday, the 8th July 1957.*

**FRIENDS:**

I have great pleasure in extending to you all a cordial welcome.

The report of the work done by the Committee during the quarter has been circulated to members through the summaries published from time to time in the issues of the Monthly Journal.

Consequent upon the General Election in the country, new Ministries were established both at the Centre and in the States,

during the quarter under review. In welcoming the new Ministries formed in the States and at the Centre, I wish them the best of luck and success in their administration. I would particularly like to welcome the new Ministry in our own bilingual State of Bombay, which needs our sincere support and good wishes.

It is gratifying to note that the Congress has been able to retain its hold over the entire country, with the exception of one State. By virtue of this dominant position, it should be able to consolidate further the elements of peace and progress in a homogeneous force, imparting strength and stability to the administration of the country as a whole, and carry forward the party's programmes and policies for the economic development and national regeneration. While there is always room for differences of opinion as to the details regarding phasing, optimum targets, classifications and definitions of sectors of interest, I have no hesitation in confirming the acceptance by the commercial community of the idea of a planned programme of development in general for ameliorating the conditions of our people and raising their standard of living. Needless to say that we shall offer our support and co-operation in fulfilling our national obligations.

The quarter that has ended and particularly the latter part, has been highlighted by the unprecedented and extraordinary tax proposals contained in the Budget of the Government of India for the year 1957-58. The magnitude of tax burden and the novelty of some of the proposals have shaken the commercial community from their very roots and left them bewildered. Immediately on the announcement of the Budget, the Committee of the Chamber, after careful consideration of the proposals, issued an initial statement to the press, indicating the far-reaching consequences of the proposals on the economy of the country as a whole. This was followed up by convening an informal preliminary meeting of the representatives of the affiliated Associations of the Chamber on 25th May 1957 to ascertain their views and reactions on the taxation measures. It was obvious that the budget proposals had evoked widespread discontent all over the country and the Committee felt that, in view of the strong feelings expressed in the matter, they should convene a Special General Meeting of the members of the Chamber. As you are all aware, the meeting took place on 14th June 1957, and the Committee, in the light of the views expressed at the said meeting, are formulating their comments and suggestions for being forwarded to Government in the form of a comprehensive memorandum. Subsequently, a deputation led by Shri

Gopaldas P. Kapadia, our Vice-President, waited on the Union Finance Minister, Shri T. T. Krishnamachari, on 22nd June 1957. The occasion was availed of for conveying to the minister the prevailing feeling of dissatisfaction and the fears and apprehensions entertained by the commercial community as to the repercussions of several taxation measures on the economy of the country. The Finance Minister gave a patient hearing to the views expressed by the members of the deputation, and assured them that their views would receive his careful consideration.

#### *Economic Trends:*

As the Finance Minister has candidly observed in his Budget Speech, the Plan has run into difficulties at the end of the very first year of the Second Plan. For the first time, since planned development got under way, there has been evidence of growing imbalance and the consequent stresses and strains in the economy. The country's foreign exchange resources have been fast reaching a precariously low level and the shadow of incipient inflation is looming large on the horizon. In regard to inflation, the decline in agricultural production has been one of the main factors contributing to the rise in prices. The food situation continues to cause anxiety and the rise in prices of cereals in certain parts of the country definitely underlines the need for taking more energetic measures to augment agricultural production. The overall deficit is placed at about 2 million tons and this will be covered by Government's programme to import foodgrains this year under the Commodity Loan Agreement with the U.S.A. Commodity Credit Corporation. It is becoming increasingly clear that unless and until self-sufficiency in agricultural production is attained, the implementation of the Plan itself would be in jeopardy. On the other hand, industrial production, both in capital and consumer goods, has maintained a steady upward trend. Simultaneously, the corporate sector of industries has been experiencing acute financial stringency for expansion and as indicated in the White Paper on the Budget, the net indebtedness of the private sector to the Banks increased by as much as Rs. 117 crores in 1956, compared to the corresponding figure of Rs. 50 crores in 1955. This clearly illustrates the inadequacy of corporate savings for financing normal expansion programmes in the private sector.

The effect of the rising tempo of developmental activities has been felt most adversely on our balance of payments position. The inordinately high expenditure on the Plan has led

to a serious strain on our foreign exchange resources. With the imports increasing sharply and exports showing a comparative decline, the resultant adverse balance has led to a rapid depletion of our accumulated foreign reserves. The Sterling Balances built up at great sacrifice during the war and preserved with great care and prudence in subsequent years were disbursed at the rate of Rs. 300 crores in a single year, 1956-57. The latest position, as disclosed by the Planning Commission, reveals that the foreign holdings of the Reserve Bank are being depleted today at the rate of Rs. 9 crores a week. The present level of our foreign exchange reserves has been reduced to Rs. 470 crores, leaving a negligible balance, after making due allowance for the statutory minimum of Rs. 400 crores as currency reserve. The credits obtained from the International Monetary Fund may provide us temporary respite, but, by and large, the prospects of bridging the foreign exchange gap do not show hopeful signs unless exports are stepped up and other remedial measures are resorted to.

It is in the context of these unfortunate events, that we feel compelled to urge the Government to review dispassionately the implementation of the Second Five-Year Plan in the light of its repercussions on the national economy. A note of caution from well-intentioned quarters need not be misinterpreted as an unpatriotic move. In the last analysis, the commercial community has as much stake in the national well-being and the prosperity of the country as the Government and its well-meaning Planners. After all, our future is inextricably linked with the vicissitudes of the Government and no member of the commercial community can under-estimate the calamity of the failure of this Plan. If we have, as responsible members of the commercial community, ventured to make a few adverse observations, I can assure our worthy ministers that it is done in good faith in order to avoid a catastrophe which we fear from our experience of economic trends may befall our nation through an error of judgment, however well-meant on the part of the Government.

We honestly believe that the recent Budget proposals have their origin in our Government's rather bold and ambitious target of Rs. 7,700 crores required for the Second Five-Year Plan. Of this, the public sector alone will require, instead of Rs. 4,800 crores, Rs. 5,400 crores. The main theme and dominant concern of the Finance Minister in the framing of his Budget has been to raise the necessary funds for financing of the Second Plan at all costs. This explains the anxiety on the part of the Finance Minister to leave no stone unturned in his desperate

search for requisite resources. He had, therefore, no hesitation in imposing at a stretch a very heavy burden of new or additional taxation on the country to raise Rs. 100 crores within a year. The magnitude of the overall burden on the taxpayer can be appreciated by the fact that the additional taxation imposed within a period of 15 months, since the introduction of the Second Plan, amounts to a colossal figure of Rs. 188 crores.

Having a practical look on the "Ways and Means" position, one cannot help feeling that we are faced with an extremely difficult situation. In the resources budget of the Plan, it was proposed to provide Rs. 1,200 crores by way of deficit financing. The Finance Minister, however, has realised that the economy of the country cannot sustain deficit financing of this magnitude without causing widespread inflation. He has consequently scaled down the amount by Rs. 400 crores which clearly indicates that in order to implement the Plan in its entirety, resources will have to be raised to meet this gap of Rs. 400 crores. As regards borrowing, by way of loans and small savings there has already been a gap of Rs. 158 crores during the first two years of the Plan. Even if he resorted to borrowing annually a sum of Rs. 240 crores for the next three years, it is doubtful whether he can reach the original target without leaving a wide gap. In form of foreign aid the Government expects to get in all about Rs. 1,000 crores. On the Finance Minister's estimate, the new taxation proposals are likely to yield about Rs. 800 to Rs. 900 crores during the Plan period provided the States fulfil their expected contribution. There will yet remain a gap of over Rs. 525 crores, according to official estimates. This estimate is likely to go up substantially if the above expectations remain unfulfilled. On a realistic approach the gap is estimated at about Rs. 858 crores. Again, if our defence expenditure for purposes of national security were to increase on a mounting scale, as it has done in recent years, I am afraid, the cumulative burden on the community will be colossal and no matter how widely the Finance Minister may choose to distribute the tax burden, the country will not have the capacity to bear a tax burden of this magnitude. It must be remembered that in an under-developed economy, consisting of a large section of the population with an extremely low rate of savings to offer against a pent-up demand for a large margin of unsatisfied needs, it is too much to expect to raise resources of such magnitude to meet the requirements of the Plan. There is a crucial limit beyond which it is impossible to expect people to restrain consumption, to tighten up their belts and practise austerity. In our enthu-

siasm to bring about rapid industrialisation of the country, we cannot afford to ignore the sad experience of unimaginative and unrealistic planning in countries like Poland and Hungary. Our worthy Prime Minister, while referring to some of the challenging aspects of our Plan, has not hesitated to state:

"We should learn from the experience of other countries, so that in our enthusiasm to get things done and go faster we may not overstrain our entire economy and which may lead to its crack-up. There is a certain limit to the strain a country can put up with."

In all humility I endorse the above remarks on behalf of the commercial community for favourable consideration by those in whose hands rests the power of making or marring the destiny of the nation as indicated in the fateful words quoted above. The best is often the enemy of good and it is better to have half a loaf than no loaf at all.

I sincerely feel that if the magnitude of the Plan were adjusted to manageable and realistic proportions, a part of the allround increase in indirect taxation could be avoided although we are not unmindful and unappreciative of the small reliefs recently announced in this sphere such as on items like tea, coffee, kerosene, etc. By way of general pattern the Finance Minister hopes to restrain consumption over a fairly wide field so as to keep under check domestic inflationary pressures and thereby release resources for Investment. He believes that the imposition of excise levies will partly serve the purpose of giving a fillip to the export trade. Judged from either of the above two criteria the heavy impost on cement and steel seems difficult to justify. It is again a moot point whether the increase in excise duties can, by itself, significantly help to achieve the objective. I am afraid, the imposition of the various taxes in this sphere will result in pushing up the price structure and the cost of living and the same will react adversely inasmuch as it will result in a demand for wage increase. The cost of living has already gone up by 14% and the real income of the people has perceptibly suffered to that extent. It cannot be denied that the proposals in this sphere are bound to have a serious repercussion on the standard of living of the lower middle-classes which have already reached the limit beyond which they are unable to bear additional burdens of taxation. I may also refer here to the attempt on the part of the Finance Minister to lower the taxable minimum and thereby rope in a very large number of assesseees including small traders and businessmen. This will certainly

result in placing a great burden on a section of the people at a time when they needed further relief against inflationary trends upsetting their modest budgets. Besides, their inclusion will also constitute a great source of harassment especially to small traders who will be called upon to comply with endless formalities for assessment of their unenviable income.

In the sphere of direct taxation, having regard to the present overriding need for providing incentives to corporate enterprise, the incessant increase in corporate taxation such as enhancement of penal tax on bonus shares and the basic rate of income-tax and effective rate of super-tax payable by companies would undoubtedly impose a severe strain and would be difficult to justify, after repeated reassuring statements to encourage corporate enterprises under the private sector. In fact the increased levy of penal tax on bonus shares constitutes a virtual ban on the issue of such shares and would severely affect Government expectations of obtaining any revenue on that account. In any event, the prohibitive increase in the rate of penal tax on bonus shares should have been accompanied by a complete abolition of the tax on excess dividends. The two levies simultaneously and at heavy rates cannot in any manner be conducive to the ploughing back of profits so essential for development and expansion of industries in the private sector. The effect of these taxes will be more inequitous as far as Section 23A companies are concerned, in whose case, while they are required to distribute a certain percentage of their profits, they are, at the same time, made liable to pay penal tax on the dividends distributed by them where the dividends exceed the prescribed limits. No doubt, the percentage of compulsory distribution by companies engaged in industries and coming within the purview of Section 23A has been lowered to 45; but I am afraid the benefit resulting from this reduction would stand nullified by the imposition of Wealth Tax on companies.

Certain reliefs have been granted in the budget such as reduction in the personal rates of taxation, relief for earned income, both for purposes of income-tax and super-tax obtaining at all ranges of income upto Rs. 35,000 and at ranges exceeding an income of Rs. 1 lakh and reduction in the rates of super-tax for inter-corporate dividends, providing some measure of incentive to investment of foreign capital in India. In this connection a Bill proposed to be shortly introduced in Parliament for exemption from income-tax of interest on large foreign credits to Indian industries will also provide an additional encouragement. I would, however, like to refer to other existing measures

in respect of which relief is called for. The Finance Minister, during the course of the interview with the deputation of the Chamber, was good enough to point out that measures like excess dividend tax and the compulsory deposit scheme were temporary expedients and liable to be altered or given up in the light of the changing circumstances. I have already referred to the need for doing away with the excess dividend tax. In regard to the compulsory deposit scheme, it has been announced that three more categories will be exempted from the deposit rules, viz. Finance Corporations, Companies engaged exclusively in the financing of hire-purchase system and air and shipping companies, both Indian and foreign. There is a strong case for having second thoughts on the issue of compulsory deposits in view of the new comprehensive Companies Act, which seeks to restrict inter-company investments. If necessary it would be desirable to withdraw this measure altogether. Further, we would like to welcome a categorical assurance from the Finance Minister that the tax structure proposed in the budget is outlined for the entire Plan period and that subject to minor marginal adjustments, there would be no additional taxation imposed during the remaining three years of the Plan period. I am not referring specifically to the Wealth Tax and the Expenditure Tax here since the Vice-President is dealing with the same in an exhaustive manner in his speech.

Friends, repeated assurances have been given that the private sector has been assigned its appropriate place in the Plan in order to play its vital role in the process of speedy industrialisation of the country. The Finance Minister, in reiterating this sentiment, assured us recently that Government have no intention to stifle private enterprise or permit the public sector to grow at the expense of the private sector. It is an indisputable fact that under a system of democratic planning, regulated private enterprise has a positive role to play. It cannot be denied that private sector has acquitted itself creditably in the First Five-Year Plan and I firmly believe that, given sufficient encouragement and opportunity, the private sector will be able to play a dynamic role in the task of national development envisaged under the Second Plan. If the economic growth of the country has to take place in a democratic, balanced and organised manner, the two sectors should be looked upon as two horses pulling the "Rajya Rath" in its path of progress with equal force in a team work which deserves above all equal treatment and impartial handling. If one partner is injudiciously loaded with heavy and burdensome taxes, high and inflexible labour costs, excessive

restraints and regulations and increasing displacement of normal trade channels, whilst the other enjoys unfettered freedom and free unhampered action which happens to be the happy lot of the State Trading Corporation, the performance of the "Rajya Rath" would hardly do credit to the task lying ahead in its path of progress. The national interests of our economy can ill afford to let Private Sector go out of step on this holy mission.

Rightly or wrongly, there is a growing feeling in commercial circles that the system of direct taxation is a veiled attempt to reduce the scope, importance and the freedom of the private sector, and to divert its available resources to the public sector. After all there is a common pool from which both the public and the private sectors of the industry have to draw their resources and if major part of the available funds are to be siphoned off to the public sector, through direct taxation, the private sector will be reduced to the unenviable position of a mere residual legatee with a depleted estate against his share. There is, therefore, need for re-orientating the budgetary policies to ensure that the limited springs of capital formation are not dried up and the free flow of capital into productive channels of industrial activity in the private sector is not increasingly intercepted.

Confronted as we are with such difficult economic trends and the desperate position we are in, with regard to both internal and external resources, I submit that a more realistic appraisal of the available resources and a rational readjustment of priorities is urgently needed to avoid undue shocks on an already strained economy culminating into an economic crisis. This plea is all the more legitimate owing to the critical position in respect of our foreign exchange resources which have been drained down to the barest minimum. Even if imports are drastically cut and new foreign exchange commitments are rigorously limited to essential capital goods requirements for implementing the core of the Plan, we would still require external aid to the tune of Rs. 600 crores beyond what has been secured till now. At the formative stage of the Plan, it was clearly indicated that the Plan had to be regarded as essentially flexible in character. It was even visualized and anticipated that in view of the massive dimensions of the Plan, it may even take a little more time than five years to complete. Unless there are compelling reasons for adhering rigidly to the period of five years, I feel that it has become imperative to make either timely adjustments in the targets, or alternatively adopt a more flexible phasing of the Plan to ensure its implementation, in the light of difficulties experienced during the first year of the Plan. There

is great scope for a reduction in the Plan outlay on a large number of items to make it more manageable in size and realistic in its character.

The Finance Minister has already indirectly accepted the necessity for such rephasing of the Plan when he stated that "even if the Plan did not encounter difficulties in certain sectors—which it does—a rephasing of it might be necessary in certain parts". Such a course would go a long way in spreading, if not reducing, the financial burden on the community. Such an action would earn the goodwill and support of the classes whose contribution in form of tax burdens are vitally needed to ensure the implementation of the Plan. I would, therefore, like to urge Government to carefully look into these aspects of the problem in a more realistic manner and evolve a phasing of the Plan which will carry with them the unstinted support and blessings of the subscribers to the finance of the Plan.

In this context, the question of securing maximum possible economy and avoidance of waste and extravagance in public expenditure and administration assumes importance. There is need for keeping the non-developmental expenditure to the minimum level possible so as to make increasing resources available for developmental purposes. There is also a growing feeling that the revenues raised by increased or additional taxation are absorbed to a large extent in expenditure on administration and expenditure of a non-developmental character. At a time when the public sector in the economy is continuously expanding, the working of public enterprises has to be particularly watched with great vigilance and care. The reports of the Parliamentary Estimates Committee bear sufficient testimony that there is lack of planning, co-ordination and a sense of public accountability resulting in considerable loss of national resources. The present mode of running State enterprises has led to serious complaints, irregularities, delays and inefficiency. A national undertaking has to be run on efficient business principles and its progress and usefulness to be assessed in terms of certain objective standards.

In this connection, it is gratifying to note that our Prime Minister has taken serious note of these aspects and has asked for effecting necessary economy in governmental expenditure wherever possible so as to create the requisite atmosphere for simplicity and austerity in the country. The appointment of a Special High-powered Committee to organise a thorough investigation of the important projects with a view to ensuring eco-

nomy and efficiency and the recent announcement of a scheme of appointing a special Economic Committee attached to each Ministry are steps in the right direction and it is to be hoped that as a result of these steps Government would be in a position to prevent all avoidable wasteful expenditure both in the administrative machinery and the expanding public sector.

Friends, I would particularly like to refer to an important matter in which the commercial community should offer its wholehearted co-operation to Government. It is proposed shortly to launch a National Savings drive and at this critical juncture in the economy of our country, when every effort is being made for mobilisation of resources through savings, it becomes our duty to assist by subscribing to the same in a liberal manner as also render such help as may be required for the purpose of intensifying the drive.

The Chamber has always stood for the observance of high standards of rectitude and integrity on the part of individuals and those responsible for the running of corporate enterprise, and this, if I may say so, is the unwritten code of ethics of the Chamber. The trade, commerce and industry owe it to the people that they adhere to and maintain these high standards in their dealings with the public as well as the State and discharge to the fullest extent their obligations to the Government in respect of all legitimate dues. It is reported that Government, and consequently the community, have been losing substantial revenues on account of the malpractices followed by some. Tax-dodging and tax evasion by dubious and illegal means should stand condemned as anti-social practices. I earnestly appeal to all to offer their best co-operation to Government to curb this evil and see that the anti-social elements remain completely ostracised. Such a process will eliminate evasion and the consequential result thereof would be that the burden of taxation, which falls on the honest tax-payer, will stand reduced. It is because of the evasion of tax by such anti-social members of the community that the community as a whole has to bear a heavier burden of taxation.

The commercial community has a high record of national service and achievement to its credit, and let us make every effort to see that its fair name is not besmirched by the anti-social activities of a few.

#### *Wage Policy:*

I now propose to deal with an aspect of economic policy which has a vital bearing on the realisation of our objective of

rapid economic advancement and that is the wage policy for the Plan period. I am one of those who believe that as in the case of capital, labour is equally in need of incentives for putting forth their best efforts towards the successful implementation of the Second Five-Year Plan. Labour has the right to claim a fair share of the fruits of increased productivity and economic progress. We want to see a steady improvement in the living standards of the workers and the introduction of schemes of social security wherever practicable. Greater social security and improved living standards, however, must ensure and can result only from greater production and reduced costs and resultant prosperity. What I would like to emphasize is that demand for higher wages and greater welfare should not be unrelated to basic determinants like the capacity of the industry, its need for future growth and expansion and the larger interests of national economy. The tendency in our country seems to be to subject industry to ever-increasing labour costs, on the one side, by a spate of welfare measures through labour legislations, and on the other by a direct addition to the wage bill by way of more dearness allowance, more wages, etc. Certainly our economy cannot afford to burn the candle at both the ends. It will not only seriously upset the Plan targets and calculations but will also accentuate the inflationary situation. In the present state of India's economy, therefore, wage restraint is among the indispensable preconditions to its speedy development. We are rightly told from all quarters that in a planned economy all interests have to be subordinated to the general upliftment of the masses. The industrial worker, as a natural consequence under such circumstances, has to mark time and rest content, at least for the period of the Second Plan so long as a fair wage as laid down by national tribunals, in conformity with the capacity of industry in which he is employed.

Viewed in this context, I feel that the appointment by Government of the Central Wage Board for the textile industry and the proposal to extend it to other industries is indeed inopportune at this juncture. Industrial workers represent but a fraction of the country's population and yet they receive a disproportionately greater attention of Government while the plight of the vast number of agricultural labourers has remained almost unchanged. In fact, since Independence, if ever there is any section of Indian society which has received a considerable amount of benefit, it is the workers in factories and plantations. There has been a significant advance in their social and economic well-being. What has been achieved in generations by the

workers in our country during the course of a few years and it will be reasonable to suggest that in the larger interests of our national economy the *status quo* should be maintained in the level of wages and costs at least for the period of the Second Plan.

Indian industry at present faces the urgent need of renovation and modernisation of their plant and stepping up its efficiency and technique to compete with countries who have become our rivals in the export market, which is our only salvation from our present foreign exchange situation. This is particularly of importance to our textile industry for which the Wage Board has now been constituted. The Indian Textile Industry is one of our most important industries, where competitive prices can alone create a foreign demand. With a competitive price structure the scope for substantial trade in Indian piecegoods is relatively high and India has good prospects of capturing a greater share in the world market by reducing costs and prices whilst maintaining quality standards. The Second Five-Year Plan has laid great emphasis on the expansion of India's export trade with a view to earning bigger amounts of foreign exchange. In a keenly competitive and steadily declining world market, expansion in the volume of our exports would be possible only by an improvement in quality and reduction in prices and costs. The claim of labour for higher wages will therefore have to be subordinated to the overriding need for maintaining the economic health of our country and preserving the competitive capacity of our industries. As has been rightly said by the Committee of Fair Wages, in its report of 1949, "any attempt to evolve principles for governing the fixation of wages must be made against the background of the general economic condition of the country and the level of national income". It is hoped that the above factors will be taken into consideration by the authorities concerned before attempting any revision of the existing wage structure in our economy.

#### *Participation of Workers in Management:*

I had on an earlier occasion dwelt at some length on the question of ensuring participation of workers in management. I had then welcomed such participation in some form or other as a psychological necessity, because the two limbs of productive activity, the employers and the workers, have to function harmoniously in the larger and permanent interests of the country. Since then a study group consisting of representatives of Government, employers and workers had been sponsored by Govern-

ment to undertake a study of the different systems of worker participation in some of the Continental countries. They visited France, Belgium, United Kingdom, Sweden, Germany and Yugoslavia and have now submitted their report to Government. The report contains some valuable suggestions and deserves serious consideration. While advocating setting up of joint councils of management, they have ruled out universal compulsion for achieving the object. As regards the functions of the Joint Councils, they have recommended that collective bargaining matters should be left to trade unions and the joint councils should confine themselves to problems of higher productivity, promotion of fuller utilisation of human resources, improvement of working and living conditions, maintenance of discipline and industrial peace, administration of laws and agreements, workers' training in industry, etc.

Participation of workers in management, if ensured in a spirit of co-operation and not of bargaining, would contribute to a rapid improvement in industrial relations. Workers should be made to realise that their interests are tied up with the prosperity of the establishment in which they work and that they are an integral part of the organisation. In a planned economy labour will have to assume increased responsibility for the success of the productive effort and the setting up of the Joint Councils of Management will serve as an opportunity for labour for making their contribution to that effort. The spirit of industrial relations should be based on mutual trust and understanding and if the scheme of ensuring participation of workers in management is pursued in the proper spirit, modern industry can confer on humanity collective benefits.

I would also like to make here a reference to the Industrial Disputes (Amendment) Act, 1957, passed by Parliament during its last session and placed on the Statute Book with all haste. The amending legislation replaces an ordinance promulgated by the President on the 27th April last, following a judgment of the Supreme Court to the effect that no retrenchment compensation would be payable to workmen whose services were terminated by an employer on a real and *bona fide* closure of business or when the termination occurred following a transfer of ownership from one employer to another. This Chamber has on many occasions in the past pointed out the undesirability of amending legislations, where the amendment will have the effect of reversing the considered decision of the highest judiciary of the land. Even from the point of view of equity and reasonableness, the amendment of the provisions relating to retrenchment compensation

resulting in reversing the position does not at all seem to be justified.

The reported closure of a number of textile units is not a matter of investigation merely because of the unemployment of labour such closures involve. It would be an interesting and thought-provoking investigation for Government to find out how far such units were unfortunate victims of an economic crisis caused by sudden dislocations in cloth and money markets. After all, it would be sheer folly on the part of any manufacturing unit today, with burdens of heavy standing charges in the form of heavy interest charges, insurance and salaries to seek relief through the expedient of a closure, involving under our labour laws staggering statutory liabilities in the shape of retrenchment compensation or benefits for involuntary unemployment of its labour force. Consequently, it is as much suicidal for the employer as calamity for the worker. To ignore the plight of the industrialist and the vast body of investors while searching for relief measures for the unemployed worker is to under-estimate and ignore the operation of certain economic forces responsible for the closure of such units.

#### *State Trading:*

It is now more than a year since the State Trading Corporation has come into existence. The Corporation has already engaged itself in the export of manganese and iron ores and a few other commodities and import of cement. Government have now decided to canalise the export of iron ore entirely through the State Trading Corporation. The reason advanced by Government for this decision is that the State Trading Corporation possesses an advantage over the numerous small miners and shippers in respect of conclusion of contracts and in securing for the country the maximum earnings in foreign exchange. It is also claimed that the rationalisation of the movement and the effective utilisation of the available port facilities have led to a sharp increase in the quantum and value of exports and that the Corporation has been able to conclude contracts with the foreign buyers for about 2.1 million tons of iron ores. Further it is stated that the Corporation has been taking steps to reach the target of 2.5 million tons as fixed by the Minerals Liaison Committee in respect of iron ore.

It is true that the existing channels of trade in this line will be utilised and that every established shipper and mine-owner will be given an opportunity to participate in the business rela-

tive to his past performance. The decision of Government to canalise export of iron ore through the State Trading Corporation would however reduce the exporters and the mine-owners to the position of small middlemen, the Corporation itself becoming the big shipper without accepting any of the responsibilities, attached to the same. This decision has created apprehensions in the minds of the interests concerned that this may be a thin end of the wedge and that in course of time they would be completely eliminated from their traditional line.

It has been claimed on behalf of Government that the State Trading Corporation has done a good job of its work particularly in the export of iron ore. It is pointed out that during the 9 months ending December 1956 exports of iron ore were of the order of 1.26 million tons. This, of course, represents a certain increase in the levels of exports which were reached during the preceding two years, viz. 1954-55 and 1955-56, the quantity of exports during these two years being 1 million tons and 1.36 million tons respectively. While I have no desire to belittle the efforts put in by the State Trading Corporation to step up our iron ore exports, it must not be forgotten that the task of the Corporation was rendered easy as a result of a spurt in world demand for our iron ore. It is pertinent to point out in this connection that even the freight disadvantage due to the Suez crisis did not affect the volume of our export of iron ore to the European countries. Moreover, it is a well-known fact that Japan, which is one of the biggest buyers of this ore, has been able to enter into long-term contracts and was even prepared to facilitate the movement of ores from the north-eastern part of the country by herself constructing additional Railways and port facilities. It is not unreasonable to expect that under these favourable circumstances even the private trading agencies could have stepped up iron ore exports to the same level as the State Trading Corporation has done, if not more. As the Chamber pointed out in its communication to Government at the time when Government contemplated participation by the State Trading Corporation in the export of ores for the first time last year, although Government's policy in respect of iron ore during the First Five-Year Plan period was to conserve the supplies of this ore for pig iron production in the country and there was no export target as such fixed for this ore under the Plan, the trade succeeded in developing export markets to the level of 1.3 million tons both in the year 1953-54 and again in the year 1955-56. This achievement of the trade in the face of transport and other difficulties experienced by them should have left no

room for doubt as to its capacity to step up exports of these two commodities.

*Golden Jubilee:*

Friends, the Chamber would be completing 50 years of its eventful career this year. This is the year of our Golden Jubilee and it is in the fitness of things that we should celebrate this epoch-making event in a manner that befits this great institution. The Chamber was born under the inspiring atmosphere of the great political and economic ferment which permeated the country in 1907. The new national awakening found its expression in the formation of the Chamber which was destined to play a dominant role in safeguarding our national prestige and promoting the trade, commerce and industry of the country. The establishment of the institution was mainly the result of the patriotic efforts of the late Sir Munmohandas Ramji, a redoubtable champion of the cause of Swadeshi, and Sir Purshotamdas Thakurdas, the acknowledged leader of the commercial community, who were the first President and Vice-President respectively.

It is not my intention, at this stage, to recount, in detail, the achievements of the Chamber in the past. I will do so appropriately on a more suitable occasion. The Chamber has all along made an organised and sustained effort to promote economic consciousness in the people, to bring about conditions favourable for the commercial and industrial regeneration of the country and in the process worked for a synthesis of business and politics. The Chamber has also made its contribution to the national cause in the days of the political struggle. I can do no better than quote the eloquent words of the late Sardar Vallabhbhai Patel of revered memory:

“As the Congress played a useful part in creating an atmosphere of patriotism, your Chamber has also rendered immense service to the commerce and industry of the country.”

It was indeed a unique honour for the Chamber to have Mahatma Gandhi, the Father of the Nation, as its Honorary Member, who accepted that position as an indication of his goodwill and as a gesture of his appreciation of the work and services of the Chamber.

The rich heritage of nearly half-a-century which has been handed down to us imposes on us a great responsibility. We

should not only carry forward the noble traditions laid down by them, but in the altered context of affairs on the attainment of Independence, play an effective and constructive role when the country has launched upon a programme of planned economic development for ameliorating the conditions of the people. With the growing technological progress in the country and the rising tempo of development, problems of economic policy assume great importance. I feel that we will have to devise ways and means for strengthening the Chamber so as to be able to render greater specialised services to its members in various spheres affecting trade, commerce and industry.

Your Committee will, in due course, be considering the question of formulating a suitable programme for the celebration of the Golden Jubilee of the Chamber. It would be our endeavour, as I mentioned earlier, to celebrate this occasion in a manner befitting the greatness of the institution to which we all belong and I am sure we will receive your co-operation in full measure.

*Speech of Shri Gopaldas P. Kapadia, Vice-President, at the First Quarterly General Meeting of the Members of the Indian Merchants' Chamber, on Monday, the 8th July 1957.*

#### FRIENDS:

You have all listened to an interesting Speech of the President, dealing with some of the important problems of the day. I shall now supplement his observations by referring to certain other topical matters which have been exercising the minds of the public in general and the mercantile community in particular.

#### *The Wealth Tax Bill:*

The President has already dealt, in a lucid manner, with the general aspects of the Budget proposals of the Government of India for 1957-58 in his Speech. I propose to refer here in detail to the two extraordinary measures of taxation, viz. Wealth Tax and Expenditure Tax.

As you are all aware, one of the significant measures introduced in Parliament in connection with the Taxation Proposals is the Wealth Tax Bill, proposing to levy a tax on the total wealth of individuals, Hindu undivided families and companies above certain limits. At the Special General Meeting of the members, I had in my opening speech dwelt at some length on

the implications of this measure on the economy of the country in general and its deleterious effects on corporate enterprise in particular. As, however, this is a far-reaching measure and has given rise to a good deal of widespread criticism throughout the country, I would like to take the present opportunity of once again reviewing the proposed legislation, reinforcing the need for its abolition as far as corporate enterprise is concerned, and suggesting certain vital amendments required in it so as to obviate the likely complications and harassment, administrative and otherwise, in case Government ultimately decide to proceed with the measure.

Although we are all anxious and in agreement with Government in regard to the rapid economic development of our country, it passes one's comprehension as to how the proposed tax on wealth of companies can stand the test of any of the accepted canons of taxation. On the other hand, the proposal to impose such a levy on corporate establishments would lead to contrary effects and serious consequences, almost likely to defeat the major objective of industrialisation of the country. Wealth tax on companies being a tax on productive capital, its imposition would, apart from and over and above acting as a damper on corporate investment, tend to divert productive resources from the private sector of industry to the public sector, leaving the former in an extremely precarious and difficult position in discharging its obligations and fulfilling the targets allotted to it in the scheme of things under the Second Five-Year Plan. In its essence, corporate enterprise is composed of equity holders, and owing to the various imposts and taxes to which corporate enterprise is already subjected the difficulty in obtaining the necessary equity capital for expansion of existing or setting up of new industries is seriously felt. The proposed new levy in the form of wealth tax on companies will, in addition to placing one more grave impediment in the formation of new joint-stock enterprises, would only make capital shy and serve to act as a serious dis-incentive to the very existence of corporate undertakings, which have been carrying on the pioneering work of industrial development of the country all these years. The levy of the wealth tax, as visualized, would in its incidence mean taxation of the same asset more than once. While the shareholders will be called upon to pay the tax on that part of the wealth of corporate establishments, which forms their investments, at the same time the establishments themselves will be subject to the tax on their assets which are nothing but the sum of the investments made by the various shareholders. There

is also the further point whether this levy would not act as a deterrent to intending foreign investors in the country, at a time when the country is in need of foreign capital for its developmental activities. The adverse effect of the impost on the export markets and on the industries participating in the international sphere, which have to preserve their competitive capacity if they are to hold their place in foreign markets, cannot also be gainsaid.

One of the arguments advanced in favour of the tax on the wealth of companies is that such a measure of taxation is prevalent in certain continental countries. However, it seems to be forgotten that, while India is on the threshold of industrialisation having yet a great leeway to make in that direction, the continental countries, where the wealth tax obtains, have already passed through the phase of industrial revolution and reached an advanced state of industrial development. A close scrutiny of the respective legislations in those countries would definitely indicate that the tax there is imposed at very low rates and is at the same time matched against lower income-tax rates. To say the least, a substantial reduction in the personal rates of taxation, say, to 50 per cent, as against the existing rates of 77 per cent for earned and 84 per cent for unearned incomes, should be an essential condition precedent to the introduction of any proposal to levy a wealth tax on individuals and Hindu undivided families. As far as corporate undertakings are concerned, the levy is uncalled for and most inappropriate, especially at the present juncture.

If Government, however, do not see their way to accept the demand for the total abolition of the proposed measure as far as corporate undertakings are concerned and are anxious to proceed with the enforcement of the levy, I would like to make certain suggestions for amendments or modifications of the Wealth Tax Bill, which, if accepted and carried out, would result in avoiding unnecessary hardship and difficulties to the assessee.

Wealth usefully employed for industrial purposes or in pursuit of activities which enable the country to earn valuable foreign exchange, should remain completely exempt from the tax, whether it belongs to individuals, Hindu undivided families, partnerships, associations or companies. In case of business and other assets, the tax should not be levied, unless such assets earn a net profit of at least 6 per cent of their capital value. The value of goodwill should not be taken into account while arriving at the net wealth, unless the goodwill amount is actually

realised and accounted for. Exemptions from the levy should be granted to public charitable trusts and non-profit-making associations, which have no business activity as such whether they be registered under the Companies Act or not. Again, according to the Bill, the value of the assets would be the amount, which they would fetch if disposed of in the open market, and a discretion has been vested in the Wealth Tax Officer in ascertaining the same. In the absence of any provision in the statute for formulating the method or basis for ascertaining the market value, such a discretion in the Wealth Tax Officer would lead to arbitrary decisions and harassment to the assessees. Valuation of business assets should be made, based on the written-down value thereof, arrived at after deducting from the cost the depreciation allowable on it under the Income-tax Act. As for non-business assets, the cost or market value, whichever is the lower, should be reckoned as the value of the asset and the assessee concerned should be given the option to sell the asset in question to Government at the value fixed by Government for the purpose of the levy.

Wealth tax being practically a new measure in our taxation structure, great care should be exercised in its administration. Discretionary powers sought to be vested in the officers concerned are prone to be misused, causing inconvenience and annoyance to the tax-payer and it is, therefore, absolutely necessary to keep these discretionary powers at the requisite minimum. Again, powers if any for enquiry, examination and search should be exercisable by an officer not below the rank of a Commissioner. It is very essential that in respect of a new measure of this type it should be administered with great circumspection and with the least cause for complaints arising as a result of harassment. Normally, declarations should be accepted and in case there is a definite ground for suspicion, the enquiry, etc. must be made by an officer of the rank of the Commissioner. Even for the disposal of assessments, no officer below the rank of an Assistant Commissioner should have the power to make the assessments and in respect of assessments for cases involving a wealth of over Rs. 15 lakhs, the assessments should be made by an officer of the rank of the Commissioner of Income-tax.

#### *The Expenditure Tax Bill:*

Another far-reaching piece of legislation introduced in Parliament is the Expenditure Tax Bill. It is a measure which has no parallel in the tax structure of any country. Experimentation with such a novel tax impost, which has not so far passed

beyond the realm of academic discussion, especially at a time when the country can ill-afford taking any risks, is, to say the least, most inopportune. As has been candidly expressed by the author of this new measure, difficulties in its administration would be immense and this alone should be a sufficient pointer against burdening the country and its administration with this measure. It cannot be denied that this impost would open out a wide door for tax-evaders and considered in a practical sense the productive result of it is not likely to be significant. Apart from the above considerations, a measure like this takes very little cognisance of the family or social conditions prevalent in India, under which a moral obligation is deemed to be placed on well-to-do persons to extend a helping hand to their poor and dependant relations. It would be unfortunate if by the stroke of a legislative enactment such a traditional element pervading Indian social fabric is sought to be impaired. There cannot be two opinions in regard to the inappropriateness and obnoxious nature of the proposed Expenditure Tax and the same should, therefore, be completely abandoned. However, despite the above weighty considerations, if the same is to be placed on the Statute Book, I would like to mention certain amendments which require to be incorporated in the Bill.

The definition of the term 'expenditure' requires to be so modified as to bring within its ambit only pure items of expenditure as such and exclude therefrom all items which go to make or create an asset or money or money's worth. To ensure the maintenance of the existing social fabric, the definition of the term 'dependant' should be extended so as to include parents, brothers, sisters and other relatives, who are entirely dependant upon the assessee for their means of livelihood and all expenditure incurred by the assessee on behalf of such relations should be excluded from Expenditure Tax. Contributions made for charitable purposes, expenses incurred in connection with the illness of the assessee and/or his dependants as also expenses on pilgrimage should all be considered as expenditure not subject to the proposed tax. In order to do away with any invidious distinction between various income groups, it is necessary that the maximum allowance available to an assessee for himself and his wife should be raised to Rs. 36,000 from the proposed amount of Rs. 24,000, in view of the fact that the net available amount after paying income-tax and super-tax for an assessable income of Rs. 60,000 will be Rs. 36,000 only.

*The Companies Act, 1956:*

As you all know, the new Companies Act, which came into force on the 1st of April 1956, containing 658 Sections—some of them with detailed but ambiguous and obscure provisions—and 12 Schedules, casting heavy responsibilities, procedural and otherwise, on those charged with the management of joint stock companies in the country, has been a source of annoyance and hardship. While some of the provisions involve the possession of detailed knowledge and the maintenance of records about various matters, certain others, in view of their penal nature, have been such that directors of companies are obliged to function under the constant threat or possibility of the penalties they impose. Representations had been made by this Chamber and various other organisations, driving home to the authorities the imperative need for modifying, simplifying and/or clarifying the provisions of those Sections, in order not only to make the administration of the statute smooth and efficient but also not to discourage prospective enterprisers from undertaking the floatation of new joint stock companies and thereby assisting in the process of the rapid industrialisation of the country in terms of our planned economic development. It is but appropriate to cite here what the learned Chief Justice of Bombay had to say on the new Company Law in a recent judgment delivered by him. He observed:

"It seems to us unfortunate that a law, which is intended to help in the development of companies in our country and also to put down abuses which were noticed in the working of companies and especially in the institution of the managing agency, should not have been couched in clear and more precise language."

The appointment of the *Ad Hoc* Committee to consider amendments to the Companies Act, with a view to make recommendations to overcome practical difficulties in its working and administration, removing drafting defects and obscurities, ensuring better fulfilment of the purposes underlying the Act and considering changes in the form and structure of the Act, is a welcome step. The Chamber has submitted a detailed memorandum to the *Ad Hoc* Committee suggesting amendments to and clarification of the Sections of the Act, which have been causing difficulties referred to above. I shall, with your permission, refer briefly to some of the more important suggestions made by the Chamber:

The term "associate", as defined in the Act, is too comprehensive and requires to be made limited in its application and more precise in wording, so that associate of Managing Agent, where he is an individual, should be confined to his partners alone and his associateship with a corporate body should include only any body corporate at any general meeting of which not less than  $\frac{1}{3}$ rd of the total voting power may be exercised by any one, individual, relative or relatives, firm or firms, and private company or companies. The definition of "relative" has been causing vexatious results in view of its wide range and ambiguity and suitable suggestions have been made to make the definition more specific and limited, in order to obviate practical difficulties. Non-profit-making associations should be made immune from the provisions of the Act automatically, without requiring them to apply for exemption under Section 25.

Section 205 has given rise to various interpretations in the matter of provision of depreciation and dividends. It has been suggested that the amount of depreciation should be considered as a deductible charge in arriving at the amount of divisible profits. At the same time the Act should make clear as to what amount of depreciation is to be considered as reasonable in arriving at the amount of divisible profits. This is very essential because different opinions have been expressed by Chartered Accountants and Lawyers and without a clear-cut provision the position of those concerned becomes very difficult. The Chamber has suggested that the amount of depreciation deductible should be the same amount as is deductible for arriving at the managing agency commission. The definition of the term 'managing director' states *inter alia* that 'a director who is entrusted with any powers of management, which would not otherwise be exercisable by him, by a resolution of the board of directors would be a managing director'. It has been pointed out that, when the board of directors entrusts a director with certain powers of management such a director should not be deemed as functioning as a managing director, unless he exercises the whole or substantially the whole powers of management.

Section 297, dealing with the Board's sanction for certain contracts in which particular directors are interested, imposes a responsibility, which is well-nigh impossible of fulfilment, in view of the difficulties for obtaining the requisite information in regard to the names of firms in which directors' relatives are partners, etc., and it has therefore been suggested that 'relatives' should be taken out from the ambit of the Section. Similarly, it has been pointed out that it would be difficult for a director

to know the business conducted by all his relatives, which information he is obliged to supply under Section 299 and suggested that the Section should be so amended as to provide that no disclosure to the Board should be required for personal contracts.

Section 314, providing that a director or his relatives cannot hold an office of profit in the company, except with the previous consent of the company accorded by a resolution, imposes a severe penalty for its breach, viz. automatic cessation of his directorship. In addition to providing that, the provisions of this Section should not apply to private companies, which are not subsidiaries of public companies, exceptions should be made in such cases, where the contravention occurs without the knowledge of the director; this object could be served by providing that it would be sufficient if such appointments are confirmed by a special resolution of the company at its next meeting held after the date when the contravention comes to the knowledge of the director. In cases where the relationship with the director accrues at a later stage by marriage or otherwise, the director concerned should not cease to be director until at least such time as the matter is placed before the General Body and its decision arrived at.

In view of many of the provisions of the Act being not applicable to private companies and these provisions being scattered at various places in the Act, it will be of great assistance to those managing such companies if all these provisions were grouped together and included in a separate Chapter for easy reference. In view of the companies being made penally liable for non-compliance with various provisions of the Act and also in view of the fact that such compliance could be made only when the company receives the necessary information from the persons concerned, it is necessary to provide that such persons should be under a compulsion to furnish the company with the requisite information in writing.

I may mention that, as desired by the *Ad Hoc* Committee, a few representatives of the Committee of the Chamber appeared before it and stressed the suggestions for amendment of the Companies Act. We cherish the hope that the *Ad Hoc* Committee would give its earnest consideration to our suggestions while formulating its recommendations to Government.

#### *Import Policy:*

Hitherto, the country's import policy was formulated on the basis of the calendar year, the policy being announced twice for

half-yearly periods. Now, Government have decided to formulate and announce the import policy on the basis of the financial year. The first half-yearly licensing period under the changed basis will commence in October next and the usual detailed import policy will be announced sometime at the end of September 1957. In the meantime, Government have announced their interim policy for the next quarter. According to this policy, fresh licences are to be granted during the next three months only for the barest minimum needs, that is for capital goods and essential raw materials. No licences are to be issued for other commodities. The policy, however, makes provision for extension of the unutilised portions of the licences granted to established importers for the previous licensing period and for the conversion of the outstanding licences from less essential items to more essential ones.

The interim import policy is, no doubt, greatly restrictive but in the context of the acute foreign exchange problem facing the country at the moment such a policy is inevitable. In spite of the drastic character of the policy, however, the actual volume of imports is likely to be maintained at a reasonably high level on account of the existing stocks and the large number and substantial value of the outstanding licences and this factor is expected to avoid scarcity conditions consequent upon non-issue of fresh licences. Government have, however, expected the trade to ensure an equitable distribution of the available stocks at a reasonable price. I express the hope that the trade will fulfil this expectation in an adequate measure.

#### *Bombay State's Finances:*

The Budget of the Government of Bombay for the year 1957/58 was presented to the State Legislative Assembly recently and as you have all noticed, the budget estimates have revealed a prospective revenue deficit of Rs. 3.17 crores. The Finance Minister of Bombay has decided to leave the revenue deficit uncovered for the present. Various factors have guided him in taking such a decision. The more important to my mind, is the fact that the question of deciding upon what additional measures, if any, are necessary to raise the revenues adequate to finance the State's obligations under the Second Five-Year Plan can be settled only after a definite indication is available as to this State's share in the revenues derived from income-tax and other divisible Central Revenues, as also the extent of other forms of Central assistance. As you are all aware, the Finance Commission is at present engaged in the examination of the

problem of distribution of divisible revenues between the Centre and the States and the various States *inter se*. The final recommendations of the Finance Commission are however likely to be out after some time.

We are glad to observe that, no additional measures of taxation have been announced to cover the revenue deficit. In the context of the recent Union Budget Proposals, and the high level of taxation that already obtains in our State, any attempt at additional taxation would have only added to the burden of the tax-payer in the State. I would, therefore, like to reiterate the special aspects of the needs and requirements of the Bombay State. As a result of the reorganisation of the States, our State has been enormously enlarged with the integration of the areas of Kutch, Saurashtra, Vidarbha and Marathawada. As you are well aware, industry and trade have played an important part in the economy of the former Bombay State. The New Bombay State with the accretion of additional natural resources, fairly large agricultural production and concentration of many industries, promises to continue to generate the necessary climate for the pursuit of activities in trade and commerce contributing significantly to its prosperity. The Bombay State, therefore, will continue as before to make substantial contributions to the Central revenues in the shape of taxes on income, corporation taxes, Union excise, etc., and the citizens of this State have a legitimate right to expect that they should be able to derive a greater benefit out of the increased contributions that they are making to the Central revenues, through their pursuits and avocations.

The claim of Bombay for increased financial assistance from the Centre is also indisputable. It is well known that some of the new regions like Kutch, Saurashtra and Marathawada are backward areas and have on that account faced recurring deficits since long. The new Bombay State has again to face such problems as bringing the scales of pay and dearness allowance on par with those existing in the area before the reorganisation of the State and loss of revenue consequent upon extension of prohibition policy to the newly merged areas where prohibition was not obtaining previously.

In an enlarged State of its size and population, with its emphasis on trade and industry, there are a large number of cities in which considerable population is concentrated, involving problems relating to the maintenance of law and order, providing hygienic living conditions, slum clearance, and their

successful solution call for efforts of great intensity and magnitude. The Bombay State will therefore have to meet huge expenditure which cannot be deployed solely out of its own resources.

It is true that having regard to the strain on the Central Finances the States should make more and more efforts to depend upon their own resources for the execution of the various schemes of development falling within its sphere. It must be remembered however that so far as the Bombay State is concerned, it has not only raised the necessary revenues through additional taxation measures but also has actually exceeded the targets of revenue realisation laid down under the First Five-Year Plan. In the process, however, people of the State have had to bear a considerable burden of taxation and they are naturally justified in expecting some relief. In any case, they would be justified in their expectation that at least circumstances would be created which would obviate the necessity for any large-scale additional taxation measures by the State Government in its efforts to find the necessary resources for financing their development programme under the Second Five-Year Plan.

Your Committee have already conveyed these views to the Finance Commission and I express the hope that it will do full justice to the case of Bombay for an increased allocation from the revenues accruing from taxes on income, central excises, estate duty, etc., as also the special needs and requirements of the State consequent upon its reorganisation.

#### *Sales Tax:*

We are happy to learn that the Government of Bombay have decided to appoint a Committee to inquire into the question of introducing a uniform piece of legislation on sales tax and to make recommendations to Government in that regard. We express the hope that the Committee will give all the interests concerned sufficient opportunity of placing their considered views and suggestions before itself and that it will evolve a uniform sales tax scheme applicable to the entire State of Bombay and that such scheme will be simple in character and easy to administer so as to minimise in a large measure the hardship and inconvenience which is being experienced by the trading community in the course of the implementation of the present scheme of sales tax.

While on this I would also like to refer to the question of conversion of sales tax on certain commodities like mill-made

cloth, sugar and tobacco into additional Central excise duties. The proposal is generally welcomed as it is expected to remove the administrative hardship and inconvenience which is experienced at present as a result of levy of sales tax on these commodities. The basis on which the proceeds from the additional excise duty in lieu of sales tax to be levied on these commodities is a very important question for our State. As the Finance Minister of Bombay has stated in the course of his budget speech, if the population is adopted as the basis it would result in great injustice and loss of revenue to the State. The three trades in question are important ones for our State and the loss of revenue which the State will sustain in case population instead of consumption is adopted as the basis, will be very great indeed. The question is at present referred to the Finance Commission. It is hoped that the Finance Commission will recommend consumption which is the just basis for allocation of proceeds from additional excise duties in lieu of sales tax. It is relevant to point out in this connection that so far as the distribution of the revenues from central excise on certain commodities is concerned, the First Finance Commission has recognised the justness of the demand for adoption of consumption as the basis for such distribution. The Commission, however, was not in a position to recommend this basis in view of the fact that the requisite data in the matter were not available. We express the hope that the requisite data is now available and this would facilitate the adoption of consumption as the basis for the distribution of the revenue from excise duties, including surcharges thereon to be levied in lieu of sales tax.

*Speech of Shri Naval H. Tata, President, at the Second Quarterly General Meeting of the Members of the Indian Merchants' Chamber, held on Tuesday, the 15th October 1957.*

#### FRIENDS:

The summarised reports of the work done by the Committee during the Second Quarter of the year have been circulated to Members through the medium of the monthly Journal of the Chamber.

#### Economic Situation:

I had occasion to review the economic trends during the course of my speech at the First Quarterly General Meeting and had particularly emphasized the desperate position we were in with regard to both internal and external resources. Examining

at length the internal resources position *vis-a-vis* the extraordinary and unprecedented levies resulting in a heavy burden of new or additional taxation on the country, I was constrained to observe that the cumulative burden on the community had reached proportions which the country would not have the capacity to shoulder. A tax burden of this magnitude, particularly having regard to the under-developed nature of our economy was undoubtedly unbearable.

During this quarter, the stresses and strains experienced by the economy have been further accentuated, and have culminated in a crisis in our balance of payments position consequent upon a steep decline in our sterling balances, which have sunk below the normal statutory limit of Rs. 400 crores. It is gratifying to find that the Government and the Planning authorities are showing a sense of sober realism in assessing the available internal and external resources and re-adjusting the developmental programme in terms of pruning the Plan and evolving a scheme of rational priorities so as to save what has been described as the core of the Plan. In describing the crisis in terms 'pains of growth' and 'difficulties of development' the Finance Minister was candid enough to admit in Rajya Sabha that "the strain and the problems we are facing are real enough and I have no desire to minimise them."

The Report of the Central Board of Directors of the Reserve Bank of India for the past year has presented a frank and an objective diagnosis of the main malady afflicting our economy. The country has been faced with the phenomenon of rising prices at a time when production both in the agricultural and industrial spheres has been showing an upward trend. At the same time, the heavy balance of payments deficit is likely to operate as a powerful dis-inflationary factor. While we have been witnessing stepping up of the rate of investment in terms of sizeable increase in development outlay from Rs. 610 crores in 1955-56 to Rs. 760 crores in 1956-57 and to the budgetary outlay of Rs. 965 crores for 1957-58, there has been no corresponding increase in the volume of savings available, both external and internal. This has evidently led to a heavy recourse to deficit financing which has steeply risen from Rs. 66 crores in 1955-56 to Rs. 280 crores in 1956-57. Likewise credit extended by the Banks to the Private Sector has increased from Rs. 65 crores in 1954-55 to Rs. 152 crores in 1956-57. On the external side, there has been a heavy draft on our sterling reserves, besides recourse to the aid from International Monetary Fund to the tune of Rs. 90 crores. As explained by the Union

Finance Minister, "this steadily mounting resort to Bank credit rather than to genuine savings both by Government and the private sector for financing development programmes has inevitably exerted pressure on prices".

*Price Trends:*

Since the middle of 1955, we have been witnessing emergence of inflationary pressures in the economy. Over the last 16 months prices have shown a continuously upward trend. The general index of wholesale prices (base: 1952-53=100) increased from 98 in March 1956 to 106 in March 1957 and to 113.3 in July 1957, showing a rise of nearly 14 per cent. This rise in the prices was shared practically by all the major groups, although, the rise was most pronounced in the case of cereals, which registered a rise of 19 points. The index of industrial raw materials moved from 111 to 122 and the manufactured articles from 103 to 109. This was clearly the manifestation of the growing imbalance in the economy created by the rising impact on demand of the incomes generated by heavy investment under the Plan. It is significant to note that the rise in the price of foodgrains persisted in spite of the import by Government of 3 million tons of foodgrains. It was partly due to the increased holding power of the agriculturist consequent upon co-operative and other credit facilities, that there was a decline in the marketable surplus relative to total production.

The most important problem before the Government was that of holding the price-line, failing which the rising spiral of prices would set into motion forces which would continuously push up the cost structure thereby adversely affecting production in the industrial sector. The situation has been further fraught with the dangerous potentiality of unleashing forces of industrial unrest which may jeopardise the very implementation of the Plan. Besides, appointing the Foodgrains Enquiry Committee to carefully examine the food situation in general and to go into the question of foodgrains prices in particular, the Government took several short-term measures to curb the rise in prices. Through an agreement with the U.S. Government under P.L. 480, arrangements have been made for importing wheat and rice; a network of Fair Price Shops have been opened for distribution of foodgrains; the Essential Commodities Act has been amended empowering Government to requisition foodgrain stocks at the average market price of the preceding three months; wheat and rice zones have been created for regulating movement of these cereals and thereby alleviating the problem

of local shortages. In addition the Reserve Bank of India had taken various selective credit restriction measures from time to time to curtail speculative and other undesirable forms of credit.

It would indeed be premature to draw any conclusions as to the extent of effectiveness of these measures in checking the prices. However, the latest trends reveal a slight decline in the price trend, though it would be difficult to say how far the same could be said to be of a permanent nature. As a result of the directives from the Central Banking Institution, the scheduled banks have been exercising a substantial credit restraint. The index of food articles has shown a downward trend standing at 109.9 in the first week of September 1957 from the high level of 113.3 in July 1957. Similar decline however has not been recorded in respect of industrial raw materials or manufactures. It is necessary to realise that the policy of "controlled expansion" of credit has to be applied with sufficient flexibility so as not to discourage the legitimate trade and industrial expansion through a credit squeeze. The problem is to ensure that "the expansion of money and credit does not take place at a rate disproportionate to the capacity of the community to mobilise real resources in the community". If the inflationary pressures in the economy have to be effectively brought under control and a larger volume of investment has to be sustained, the crucial question is to increase domestic production, especially food production simultaneously with the supply of consumer goods. The present situation therefore needs a realistic appraisal of the problem and a re-orientation of the taxation and other policies so as to create a climate conducive both to increased production and increased savings.

#### *Trends in Production:*

Agricultural production in 1956-57 according to the latest estimates has been placed at 68.6 million tons as against 64.9 million tons in 1955-56 and 66.6 million tons in 1954-55. The output of foodgrains in 1956-57 thus represents a sizeable increase of nearly 6 per cent over the level reached in 1955-56. In view however of the rise in foodgrains prices consequent upon a comparative decline in the marketable surplus, it has become imperative to concentrate all-out efforts to achieve the revised targets of an increase of about 28 per cent in agricultural production as a whole and of about 25 per cent in the case of foodgrains so as to ensure the successful implementation of the Plan. The question also assumes great significance in the context of the

heavy draft on our foreign exchange resources as a result of imports of foodgrains.

Industrial production showed a rising trend. The average index of industrial production of 1951 as base year rose from 122.1 in 1955 to 133 in 1956 representing an increase of about 9 per cent. The average of the index for January/April 1957 worked out at 141.9 representing an increase of 9 per cent over the average for the same period of 1956. Substantial increases have been recorded in coal (15.3 per cent) and sugar (10.1 per cent). Production of cotton textiles and paper and paper boards was also higher by 6.2 per cent and 8.4 per cent respectively.

Normally, the quarter under review, every year, is a period of comparatively slack business activity. During this period, money flows back to the banks and their advances are reduced. However, on account of the heavy demand for credit arising out of the continuously increasing tempo of business, bank credit had remained at a very high level throughout 1956 and the situation was aggravated during the busy season early this year. In order to check the speculative rise in prices and bring down the volume of bank advances to a reasonable level, the Reserve Bank issued directives to the scheduled banks in June this year to cut down their advances against foodgrains and sugar. Subsequently, at a meeting with the representatives of the banks in August, the Governor of the Reserve Bank reiterated that the banks should tighten their credit policy and bring down their volume of credit in the shape of advances and bills purchased or discounted to Rs. 800 crores by the middle of October. The directives of the Reserve Bank and its Governor seem to have been scrupulously implemented as the total of advances and bills purchased and discounted has diminished from Rs. 915 crores in the beginning of July to about Rs. 835 crores in the third week of September. This is very near the target of Rs. 800 crores which the Reserve Bank has recommended.

With the busy season in sight, it is, however, fairly obvious that the demand for bank credit will again shoot up. A new factor which is likely to aggravate the situation is the recent steep increase in the Bank Rate by the U.K. from 5% to 7%. Though it is difficult to say whether there would be any corresponding adjustment in the Indian bank rate or not, it is certain that, as a result of this increase in the British Bank Rate, the pressure on the available supply of funds in India will increase. The exchange banks which draw upon the resources of their head offices in London during the busy season when the bank

rates in the two countries approximate to each other, would now find it to their disadvantage to do so. They will therefore have to depend on deposits in India with the result that the rates for deposits may go up and the cost of bank credit in general might rise. The Reserve Bank might be expected to ease the pressure to a considerable extent by lending against usance bills as it has been doing in the last few years but the assistance from the Reserve Bank may not be adequate.

*Foreign Exchange Resources:*

Heavy withdrawals from our foreign exchange balances, which have been causing anxiety to both the Government and the business community, continued uninterrupted during the quarter. Since the beginning of July, the reserves have declined by nearly Rs. 100 crores to Rs. 350 crores. Even if allowance is made for abnormal factors like the loan of Rs. 10 crores to Burma and to the sharp fall in the value of sterling securities consequent upon the increase in the Bank Rate, the depletion of our limited foreign exchange resources continues to be at an alarming rate. It will be quite some time before the stringent restrictions on imports placed in the beginning of the quarter and renewed for the next six months with slight changes make their influence felt. On the other hand, the estimate of external resources necessary for the implementation of the Second Five-Year Plan which was originally placed at Rs. 1,100 crores, has now been stepped up to Rs. 1,600 crores. Taking into account the external assistance that has been promised or committed upto now and the sterling Balances and I.M.F. credit already utilised, there is a gap of Rs. 700 crores to be bridged. The Finance Minister and the unofficial delegation of businessmen who are in the U.S.A. at present are making a valiant effort to attract foreign capital to this country on the requisite scale. If their efforts yield fruit, the Second Five-Year Plan will have surmounted one of the most difficult hurdles with which it has been faced early in its career. If, however, the flow of external assistance falls short of the requirements, the country will have to reconcile itself to a smaller Plan than is envisaged at present. From this point of view, the speech of the Minister of Labour and Employment and Planning, Shri Gulzarilal Nanda, in the Lok Sabha, towards the end of the last session of the Parliament is sober and realistic. Fully realising that planning was to be a continuous process and that the Second Five-Year Plan was to be followed by a series of plans, he said:

"We have to do nothing which will queer the pitch for subsequent phases of development. I am saying all this in view of certain warnings which are being given to us. We are all aware of the problem we are facing. We are aware of the urgency of resurveying our resources, of redoubling our resources, of redoubling our efforts and to an extent, the need to readjust our Plan. I am saying this to convey to the House that this overriding importance of keeping inflationary pressures under control is very fully present before our minds, and we are attempting a rephasing of the Plan in the light of these considerations."

Our solution for bridging the widening gap would be to curtail imports, so that our exports exceed the value of the products that we buy abroad. But this solution has only limited scope, because, as has been indicated earlier, even for the implementation of the core of the Plan, which is vital for meeting the immediate needs of the economy and which the nation is committed to see through, large volume of capital and machinery will have to be imported. The policy of import cuts, if pursued indiscriminately, will be self-defeating in purpose and would ultimately slow down the rate of development itself. Moreover, there is a limit to the measure of austerity and sacrifice that could be demanded of the people at a time. In order, therefore, to see that the pace of industrialisation is not slowed down and that the community at large is subjected only to such strains and sacrifices as it could possibly bear, the level of imports must be taken to be more or less static. To say this is not to deny the need for a carefully framed restrictive import policy for the Plan period. My purpose in emphasizing this point is just to indicate that for an effective solution to the difficulty, attention will have to be concentrated on the augmenting of our export earnings to a level far surpassing the planned target. Import cuts would, at best, be only a partial solution to the problems of a developing economy.

Within home, Government have instituted many effective measures for giving an incentive to our export promotion drive. The setting up of Export Promotion Councils for a good number of our major export commodities, the constitution of the Export Risks Insurance Corporation to provide protection to exporters against risks arising in export trade, the setting up of a Foreign Trade Board to co-ordinate export promotion policies, the sponsoring of industrial-cum-goodwill Missions to some of our prominent buyer countries are all steps in the right direc-

tion which would stimulate and expand our exports. But mere setting up of these bodies would be of no avail if really effective and imaginative policies and liberal fiscal measures do not ensue from these agencies. Among the fiscal incentives, rebate of import duty on exported commodities in respect of their import ingredients, remission of income-tax at a reasonable rate in respect of income from exports, export subsidies, elimination of the incidence of sales tax on commodities meant for export, etc. are some of the suggestions which require urgent consideration and liberal implementation. The rebate of import duty is not being made full use of by the trade mainly because of the vexatious procedure and delay in grant of rebates. Formulae for rebates on different commodities, based on an *ad hoc* basis, to be modified periodically, if necessary, ought to be devised to settle applications for rebate promptly.

Remission of direct taxes has taken positive forms in other countries. India has still to adopt practical incentives in the shape of more tax reliefs which have become common in other countries. A number of countries in Europe and America, including those well-established in international trade, offer export subsidies. It is axiomatic that India's aspirations to obtain an increasing share in world trade in manufactures will be conditioned by our competitive strength. This strength cannot be built in a short period by a country that makes a late start in industrialisation. All our policies, economic, financial and social welfare, have to be judged by this criterion whether the same, directly or indirectly, helps or hinders the competitive strength of our industries. Besides fiscal incentives, efforts have also to be made to see that Indian goods are of a high quality and standard and are priced moderately. The railways should help not only the expeditious movement of export commodities to the ports but also give concessions to export traffic. It may also be desirable to see, whether in a crisis like this, we could not do away with some of the restrictive measures in certain sections of large-scale industries like textiles and oils, so that increased production in such sectors might contribute to greater exports.

The Central Government have, of late, been prepared to permit the installation of automatic looms provided their output is entirely earmarked for export. With greater incentives and further relaxation of restrictions, the country can far surpass the export target of 1,000 million yards a year. The present exchange difficulty through which India is passing is sheer outcome of the strains and stresses resulting from our highly accelerated develop-

ment programme. I firmly believe that with success attending our efforts to acquire adequate assistance from friendly countries and with a dynamic and multi-pronged export promotion drive, we will be able to slow down the rate of outgoings of foreign exchange and improve trade equilibrium. The high and continuing deficit in the balance of payments and the steady decline in our sterling balances have invested the problem with a sense of urgency.

*New Import Policy:*

The Import Policy for the licensing period commencing from the 1st October 1957 has just been announced. The new Import Policy, no doubt, represents an improvement over the policy which was in force during the quarter July-September 1957. As compared to the Policy for the period January-June 1957, however, it represents a great measure of tightening of imports. The new Policy envisages drastic all-round cuts in imports of a large variety of goods, so as to effect saving in the country's foreign exchange resources to the extent of about Rs. 100 crores, as compared to the total outlay incurred on imports during the first half of the current year. Such a highly restrictive import policy was inevitable in the context of the acute foreign exchange problem which the country has to face.

The new import policy represents an attempt on the part of the Government to utilise the limited available foreign exchange in the best possible manner. One of the primary needs of the hour is to maintain the tempo of indigenous production and it must be said to the credit of Government that they have tried to ensure not only to maintain but to increase the tempo of indigenous industrialisation by making adequate provision for grant of licences in respect of raw materials, components and accessories required by the various industries. An attempt has also been made to enable the established trade channels to maintain their position in the import trade by utilising their services in the importation of some of the important industrial raw materials.

In a way, the new Import Policy can be deemed to be a challenge to the initiative and resourcefulness of the indigenous industries. It is upto them to take advantage of the opportunity now presented to them and to expand their production and to establish new industries so as to fill up the gap caused by the severe curtailment of imports of a wide variety of articles. There is, however, one moral responsibility on the indigenous indus-

tries and that is to keep their cost of production to the minimum level possible, so that the prices at which their products are available to the consumers are not unduly high. At the same time, Government will have to exercise a constant watch over the inflationary forces and to hold them in check, so as to ensure availability of raw materials and other requirements of the industries at reasonable prices and not to allow the wage structure of the industries to rise to unduly high levels. The industries must also take measures to maintain and improve the quality and standard of their finished products. In this connection, I would refer to the appeal of Sjt. Morarji Desai, Minister for Commerce & Industry, to the traders and manufacturers not to take advantage of the situation arising out of the restricted import policy. It is gratifying to note that the appeal has evoked encouraging response from the traders. I am confident that the Trade and Industry of the country will rise to the occasion and continue to extend their unstinted co-operation to Government in the matter of holding the price line.

#### *Role of Labour:*

Labour, as we all know, has to play a vital role in the realisation of our objective of rapid economic advancement. I firmly believe that industrial peace or cordial employer-employee relations should be an expression of the mutual acceptance of the principle of reconciliation, compromise and co-operation. A notable contribution has been made in this direction by the 15th Session of the Indian Labour Conference held in July last in New Delhi. An important outcome of this Conference was the virtual abandonment of the demand for a 25 per cent increase in wages. There may now be neither a blanket wage freeze nor a blanket increase in wages. This, to my mind, is quite realistic under the present circumstances. Otherwise, an indiscriminate increase in wages would have led to endless complications in the industrial cost structure, besides being inflationary in its consequences. I would also like to remind the labour leaders in this connection that if ever there is any section of Indian society which has received a considerable amount of benefit in recent years, it is the workers in factories and plantations. Shri G. L. Nanda, Union Labour Minister, while refuting the charge that the real wages of workers had fallen, quoted figures in the Lok Sabha very recently to prove that the earnings of workers in real terms had improved during the last few years. Real earnings, apart from housing and other welfare amenities, according to him, had risen by 25 per cent since 1947, although

as compared with 1939, the rise was threee per cent. Taking the 1939 earnings of workers as low, the index of real earnings was 78 in 1947, 92 in 1951, 102 in 1952, 100 in 1953 and 103 in 1954. He also added that if social security measures were also taken into consideration, as much as 20 per cent could be added to these figures. If, however, the workers' earnings and their standard of living in our country are still low, these deficiencies are, as the Labour Minister rightly pointed out, "part of the general problem of poverty in the country" and could not be made up "for the most part without a corresponding increase in output and productivity". From this point of view, I think, it is gratifying to note that the Central Advisory Council of Industries adopted a resolution recommending to the Government the establishment of a tripartite national productivity council. Such a council, in my opinion, could do much to stimulate interest in productivity and also undertake productivity studies and experiments.

The appropriate machinery for wage fixation, it was suggested, would be tripartite wage boards similar to the one already appointed for the cotton textile industry. However, I feel that the appointment by Government of wage boards for other industries will be rather inopportune at the present juncture. The proposed wage boards will have to tackle innumerable problems of bewildering complexity. They will have to take into account the differences in cost of living in different areas and the differences in the work-content of different occupations. They will also have to reconcile these differences with the obvious divergence in the 'capacity to pay' of different units. The Government will also have to ensure that the wage boards, if and when they are set up, do not function in isolation, and their awards, before they are published, are subjected to some expert and impartial scrutiny. Such scrutiny will have to be undertaken in the interests of a certain uniformity which will avoid unnecessary controversy over discrepancy in rewards for similar work.

In the final analysis, all wage increases, as the Union Labour Minister himself has recognised, must be rooted in productivity and productivity in its broader sense involves the economic utilisation of all resources, plant, raw materials and man-power. Workers, therefore, should realise that at a time when the economic stability of the country is being threatened by inflation, demand for higher wages can be justified only when accompanied by a corresponding improvement in productivity.

*Labour Discipline:*

I now come to a matter which has been exercising the minds of industrialists for some time past. It is to be regretted that there is a growing deterioration in our sense of national discipline and tolerance. I would particularly like to confine myself here to the question of discipline among the workers. In recent years there has been a distinct slackening of discipline in the ranks of the workers. Apart from isolated acts of violence against supervisory staff, which may be traced to imaginary or real grievances of individual workers, there have been instances of organised violent or semi-violent behaviour. The unruly behaviour of plantation labour in South India is a glaring example of the growing indiscipline among the ranks of the workers. The tendency to resort to illegal strikes and serious forms of intimidation and violence have to be deplored. As you are all aware the 15th Session of the Indian Labour Conference considered the subject of discipline in Industry and set up a tripartite sub-committee to consider further measures for improving discipline in industry and this sub-committee has now drawn up a 'Code for Discipline' in industry. This 'Code for Discipline' is now to be placed before the Standing Labour Committee to be held in this week in New Delhi, for its adoption and for suggesting measures for its effective observance by the parties concerned.

This Code recognises that for the maintenance of proper discipline in industry, there should be recognition by workers and employers of the rights and responsibilities of either parties. It enjoins both parties to encourage constructive co-operation between their representatives at all levels and to abide by the spirit of the agreements mutually arrived at.

It is indeed unfortunate that despite the existence of suitable machinery for the settlement of industrial disputes, strikes and lock-outs are not infrequently resorted to. In recent months, there has been a general wave of labour unrest in the country and our attention has been drawn to attempts on the part of some radical labour leaders to disrupt the working of some important industries. In my opinion, the 'Code for Discipline' is a document of considerable significance. If it is faithfully implemented, I think, it will help to maintain healthy industrial relations and induce a sense of co-operation between workers and managements. The tendency to treat industrial workers as a specially privileged class is certainly not healthy. They must realise that their welfare is linked up with the eco-

nomic development of the country in general and of the industry in which they serve in particular. May I take this opportunity of appealing to the labour leaders to give a correct lead to workers at the present critical juncture? I hope and pray that they will serve the working classes and the nation by observing this 'Code for Discipline' which has been evolved in the best interests of the country.

*Speech of Shri Gopaldas P. Kapadia, Vice-President, at the Second Quarterly General Meeting of the Members of the Indian Merchants' Chamber, held on Tuesday, the 15th October 1957.*

FRIENDS:

You have all listened to an interesting speech delivered by the President dwelling upon some of the important issues and problems confronting the economy of the country in general and the industrial and business community in particular. I would, with your kind permission, supplement the same by offering in brief my observations on certain other matters which are of topical interest.

*Wealth Tax and Expenditure Tax:*

Two new taxes, both of them having ramifications of a far-reaching character, have been added to the tax structure of the country. As you are all aware, when the Bills relating to the Wealth Tax and the Expenditure Tax were before the Houses of Parliament, the Chamber had endeavoured to place before Government and the Members of the Parliament the implications of the schemes of taxation in question and their effect on the economy of the country. Subsequently representatives of the Chamber had also an opportunity of meeting the Select Committee to which the Bills were referred and re-stating our point of view.

Regarding the Wealth Tax, we had in particular emphasized that the same should not be levied on companies for the obvious reason that a tax on corporate enterprise would, in effect, be a tax on productive capital and inevitably result in diverting productive resources from the private sector to the public sector. In a developing economy where the greatest need is to stimulate increased investment in productive operations, such a tax would act as a serious damper on increased investment in corporate undertakings. It is unfortunate that when there should be a concentrated effort for encouraging the plough-

ing back of profits in joint-stock enterprise for the expansion or rehabilitation of such enterprise, a step like the one under discussion should have been taken which will lead to results of a contrary character. We had also drawn prominent attention to the incidence of double taxation that was inherent in the scheme of taxation of the wealth of joint-stock companies. In addition to the shareholders having to pay Wealth Tax on that portion of their wealth represented by investment in companies, the latter would also be called upon to pay Wealth Tax on the same asset. In the case of individuals, we had submitted that, if at all, such a levy should be only after a substantial reduction in the personal rates of taxation was effected.

The Expenditure Tax is a novel measure of taxation. Such a tax is not in force in any country at the present moment. The administrative difficulties in implementing this scheme of taxation would be immense. It would practically become an instrument of oppression against the tax-payable public. The psychological consequences of the operation of these two new taxes have also to be given due weight.

The Wealth Tax Bill underwent certain significant changes during the process of its Select Committee and Parliamentary stages. It is, however, a matter for profound regret that the proposal that the tax should at least not apply to companies did not find favour. We cannot help reiterating that the Wealth Tax on Companies will seriously come in the way of the expansion and development of corporate enterprises in the private sector. I do not propose, at this stage, to refer, in more detail, to the modifications made in the Wealth Tax legislation. I will only refer, in passing, to some of the changes which indicate an improvement over the previous position. Companies engaged in the manufacture, production or processing of goods or articles or in mining or in generation or distribution of electricity or power are being given a Wealth Tax holiday for a period of five years from the date of their incorporation. Shipping companies will be exempt from this tax which, indeed, is to be welcomed. In the case of a company where the profits made in any year are less than the wealth tax payable for that period, the tax liability would be limited to the amount of the profits. Shares held by one company in other companies, including shares held by a person in a company which is not liable to Wealth Tax on account of the special provisions contained in the Bill would also be exempt from the levy. While the exemption granted to industrial companies undertaking substantial expansion is, indeed, welcome, the benefit is, from a practical point

of view, rendered nugatory by the requirement that the accounts of the existing unit and the expanded portion should be segregated and separately maintained. With an integrated structure for the whole unit, such a treatment would present difficulties of a practical character.

In regard to the Expenditure Tax Bill, the modifications made are less fundamental and in effect are matters of small detail. Of course, the list of exemptions has been slightly enlarged. The definition of the term 'dependent' for purposes of allowance of expenditure is also made a little wider. But even the revised definition does not go far enough. We had urged that, in view of the social conditions obtaining in this country, where for generations together the idea of a moral obligation for supporting poor relatives had persisted, the definition of 'dependent' should include parents, brothers, sisters and other blood relations who, in effect, depend upon the assessee for their sustenance. The provision has been modified so as to include the wife or husband of the assessee, as the case may be, and to provide a separate allowance of Rs. 4,000 for the maintenance of the assessee's parents. Even now we cannot help reiterating that a wider category of dependents as suggested by us earlier should have been covered for the purpose of the relief.

As I mentioned, the two taxes have become part of our tax structure. At this stage, therefore, we have to concentrate our efforts to ensure that the administration of the measures in question is carried on in a spirit which takes due note of the practical requirements of the situation confronting the assessees. Arbitrary exercise of the extensive powers vested in the administrative officers by the provisions of the Act should not result in the harassment of the assessees. I am sure, I am voicing your feelings when I specially urge that this aspect should receive the special attention of those in authority so that suitable instructions are issued to the Departmental Heads concerned with the practical application and day-to-day administration of the tax measures.

#### *Spate of Hasty Legislation:*

We have had occasions often in the past to give expression to the serious concern caused on account of the trend of rapid succession of legislative enactments affecting different aspects of commercial and industrial activity in the country. In fact, those in charge of trade and industry have been finding it increasingly difficult to keep pace with the manifold require-

ments under such legislative measures. These legislations and the rules framed thereunder characterising Government's policy in the economic and concerned spheres seem to suggest that the psychological need for a general sense of assurance that the interests more directly affected by the legislation would be afforded reasonable opportunities to place their points of view before Government is not properly appreciated and is, in fact, being ignored. In order to give the necessary encouragement for discharging the tasks and obligations implied in the programme of development, creation of an atmosphere congenial to the purpose is of utmost importance and legislations enacted in such a hasty manner affecting important activities in the sphere of trade, commerce and industry would only tend to curb and eventually destroy the feeling of confidence necessary in a large measure for creating and sustaining the required atmosphere. It is, therefore, imperative that any feeling of grievance in the minds of interests affected, of Government having completely by-passed them by going ahead with their proposals without any attempt to evolve legislative measures on the basis of previous discussion and consultation should be avoided.

Another aspect resulting from such hasty legislation is the grievance that is largely felt by the public in their not being able to give proper and adequate consideration to the different legislative measures that are being introduced in Parliament from time to time by reason of the fact that in a majority of cases there is very little time-lag between the introduction of the relevant bills in and passage of the same by Parliament. No doubt bills which are considered by Government of public importance are being circulated for eliciting public opinion, but, at the same time various measures of considerable importance, especially those in the domain of finance, commerce, industry and labour are being rushed through very often without affording the requisite time and opportunity to the general public for enabling them to place before Government their considered views and observations, particularly in regard to the hardships and difficulties that would emerge out of practical operation of such measures. In many cases even copies of bills on which the interests affected would like to place before Government their views and suggestions are not made available for a very long time after their introduction in Parliament, with the result that the public finds it extremely difficult, if not impossible, to be ready with and forward to Government their views and observations within the prescribed period.

This state of affairs naturally gives room for a genuine grievance that Governmental measures fail to take cognisance of the various problems confronting or affecting certain important sections of the population. I would, therefore, like to emphasize that Government should, as a matter of general principle and practice, arrange for the circulation of all bills that may be introduced in Parliament, particularly those affecting the spheres of finance, commerce, industry and labour, and the interests concerned allowed adequate time and opportunity for giving their mature consideration to and offering their views and suggestions on the provisions of those bills. I would also suggest that Government should make the necessary arrangements for making available sufficient number of copies of the bills in different parts of the country and to take into account the availability of copies of the bills in fixing the time-limit for submission of views and suggestions of the interests concerned. It is also necessary that there should be a reasonable time-lag between the submission of the reports of Select Committees to which certain bills might be referred and the ultimate consideration and passage of such bills by the Houses of Parliament in the light of those reports, in order to enable the interests or bodies affected to bring to the notice of Government any practical difficulties or lacunae which in their opinion might result from the implementation of the measures as recommended, altered or modified by the Select Committees.

While on this, I may refer to the practice followed by Government of making far-reaching amendments in the Indian Income-tax Act through the annual Finance Bill. In view of the fact that the annual Finance Bill has to be passed by Parliament within a restricted period and also of the fact that it is not the practice to refer the Finance Bill to a Select Committee the interests concerned are deprived of the opportunity to give their consideration to the provisions of the bill and submit to Government their comments and observations thereon. I would, therefore, earnestly suggest for the consideration of Government that proposals to amend legislations like the Indian Income-tax Act should not form part of Finance Bills but should form the subject-matter of separate bills to be introduced in Parliament and to be circulated for eliciting the views and suggestions of the interests concerned.

#### *Central Sales Tax:*

The levy of sales tax on inter-State transactions under the Central Sales Tax Act, which was enacted towards the end of

1956, has commenced from the 1st July 1957. This legislation was primarily aimed at regulating the levy of sales tax on inter-State transactions and putting an end to the state of confusion that prevailed in the sphere of inter-State trade for some years. In actual practice, however, the position of certain kinds of transactions which are carried on in the sphere of inter-State trade and commerce is yet to be clarified *vis-a-vis* the Central Sales Tax Act and there is a lurking fear in the minds of traders that the authorities of more than one State may claim the right to levy inter-State sales tax on such transactions. To illustrate the point, when goods are despatched by a dealer in one State to a dealer in another State and delivery of the same is given to the buyer by transfer of documents of title to the goods in the buyer's State a question arises as to which State is entitled to levy inter-State sales tax on such transactions. Bearing in mind the object underlying the Central Sales Tax Act, namely, to end the chaos that was in evidence in the sphere of inter-State trade for some time, it is really the exporting State which should be entitled to levy inter-State sales tax on the above transactions. If the importing State is deemed to be entitled to levy tax on such transactions, we would be reverting to the previous situation under which a State Government impinged administratively upon the dealers of another State—a situation which had caused a good deal of harassment and difficulties to the traders throughout the country for a considerable time and which it was the intention of Government to avoid by passing the Central Sales Tax Act.

There is another important aspect to which I would like to refer in connection with the working of the Central Sales Tax Act. In some of the trades, according to the normal methods of business, sales by transfer of documents are effected two or three or even four times before the delivery of the goods is actually taken by the ultimate buyer. By virtue of the provisions of Section 3 of the Central Sales Tax Act, every such sale by transfer of documents to the title of the goods would attract inter-State sales tax. The addition of tax at every stage in this way only adds to the cost structure of the article. The Chamber has, therefore, suggested to the Authorities that with a view to preserving the normal methods of business which prevailed in some of the trades over a number of years and with a view to reducing the incidence of the Central sales tax on inter-State sales of the goods in question, the provisions of Section 3 of the Act should be so modified as to ensure that inter-State transactions would be subject to inter-State sales tax only at the point

at which there is sale by a dealer in one State to a dealer in another State. I would also in passing refer to the need for making a suitable provision in the Central Sales Tax Act for grant of rebate of the inter-State sales tax paid on goods imported from one State into another for the purpose of export outside the country. Such a provision is necessary in the context of the present highly competitive conditions in the export markets.

There are also other difficulties which are experienced in the course of the working of the Central Sales Tax Act. There are several other points which are awaiting clarification from the authorities. We are conscious of the fact that when the Central Sales Tax Act was framed, Government could not foresee and anticipate all the difficulties that would arise as a result of its operation. All the same, it is heartening to note that those in charge of the administration of the Act have given assurance that Government are prepared to consider the difficulties of the trade sympathetically and try to solve them.

#### *Customs Difficulties:*

For the last few years, there have been recurring complaints about Customs difficulties from the various sections of the trade. The main Customs difficulties usually complained of relate to classification and assessment of goods, delays in completion of assessment proceedings, delay in completion of chemical and analytical tests, insistence on the part of the Customs Authorities on frequent analytical tests, sudden changes in classification of articles with consequential changes in the rates of duty leviable thereon without prior notice to the trade, lack of uniformity in the procedures adopted at the different Ports and difficulties caused by the lack of proper co-ordination between the Import Control Authorities on the one hand and the Customs on the other.

The changes in Customs classification of imported articles have occasioned considerable difficulties to the trade. Goods which are assessed under a particular classification for number of years are also sometimes affected by changes in classification. In this connection, the Chamber has suggested that when a change in classification is proposed to be made with regard to a particular item, the interests concerned should be previously consulted and the change should be announced through a Public Notice for the information and guidance of merchants concerned sufficiently in advance, so as to allow them sufficient time

for making the necessary adjustments. As a result of lack of adequate co-ordination between the Customs Authorities and the Import Trade Control Authorities, the trade is not in a position to get authoritative information about the Import Trade Control Classification of the articles that are to be imported. In order to get over this difficulty, the Chamber has often suggested in the past that a machinery composed of officials drawn from both the Import Trade Control Department and the Customs should be set up to determine classification of articles and to advise the importers concerned of the same promptly. We would urge the Authorities to consider this suggestion with a view to its early implementation.

Apart from this, there is need for taking steps to energise the machinery in charge of the administration of the Customs law at the different Ports and for a reorientation in the outlook of the Customs personnel in a manner which, while safeguarding Government's revenue, take due note of the genuine difficulties of the trade resulting from the observance of the Customs procedural formalities. In this connection, we would suggest the institution of some sort of supervisory arrangements on the work of the staff at the lower stages which would greatly facilitate expeditious disposal. The provision in the Sea Customs Act regarding appellate machinery also call for amendment. The appeal provided for under the Sea Customs Act as it stands at present is only in the nature of departmental review and cannot claim the merit of an appeal to an independent authority. We are of the opinion that the relevant provisions of the Sea Customs Act should be amended at an early date, with a view to setting up an independent Appellate Authority to hear appeals from the orders passed by the Customs Officials on the lines of the Income-tax Tribunal. The Tribunal should be subject to the administrative control of the Law Ministry. Such a course will, we believe, inspire confidence in the traders and also ensure greater care and circumspection on the part of the Customs Officials while passing orders and decisions and minimise the element of arbitrariness in their decisions. I may add that the Committee of the Chamber have, in a comprehensive Memorandum submitted to the Customs Reorganization Committee, made these suggestions and several others. It is to be hoped that the views and suggestions of the Committee of the Chamber will receive careful consideration at the hands of the Enquiry Committee and the recommendations of the latter will be such as would help to simplify the Customs procedural formalities and to minimise occasions for complaints by the trade about

hardship and inconvenience caused to them in the observance of the same.

*Administrative Tribunals:*

The recent announcement of the Union Finance Minister regarding the proposal to establish administrative tribunals in this country for disposal of questions arising out of the administration of fiscal laws relating to Income-tax, Estate Duty, Customs, Excise, Foreign Exchange, etc. has to be viewed with great concern as it would involve a fundamental change in our judicial system. As the Minister for Law has confirmed that the proposal for administrative tribunals to decide revenue disputes and matters relating to conditions of service and discipline of Government employees is under active consideration, it is pertinent to make a few observations on the far-reaching nature of the change contemplated under this system. One of the main reasons advanced in favour of the establishment of these tribunals is that the collection of revenues due to Government is being delayed due to the filing of writ petitions in the High Courts challenging the orders of the departmental officers and that with a view to ensure the speedy collection of Government dues it is necessary to restrict the right of the citizen to resort to the extraordinary jurisdiction of High Courts in the matter of issue of various writs. The right to move the High Courts through writs is one of the most cherished privileges of the community and any attempt to constrict the fundamental rights through Executive encroachment should be forcefully resisted. To set up administrative tribunals outside the supervisory jurisdiction of the High Courts and the Supreme Court would mean the subservience of the Judiciary to the dictates of the Executive and this would be detrimental to the growth of our infant democracy. While agreeing with the Finance Minister on the need for expeditious disposal of disputes arising in the course of administration of fiscal laws, especially income-tax, and thus ensure speedy collection of taxes, I am afraid that the establishment of administrative tribunals would not by themselves offer any real remedy to the situation. At the same time, any curtailment or abolition of the powers of the High Courts to adjudicate in such disputes would undermine the confidence of the community and the semi-official character of the tribunals would take away their impartial nature as their approach would invariably be coloured by considerations of revenue.

The High Courts in India enjoy well-deserved forensic traditions and their zeal for dispensing even-handed justice and

the high quality of their decisions have earned for them prestige and public confidence. The ordinary citizen justifiably looks to them for preservation of his precious rights. The High Courts have been able to enjoy this reputation primarily because of their independence and impartiality arising from the sense of security and permanence of tenure in the matter of judicial appointments. The personnel of the Administrative Tribunals would be appointed and removed from office at the will of the Executive and naturally would not be able to command the measure of independence required for administration of justice. In the words of Prof. Laski, "Application of the Acts of Parliament involves interpretation by a Court since it is the fundamental principle that the meaning of legislative intention should be settled by a Court of Law, thereby it is sought to avoid not merely the obvious dangers of unfettered executive discretion in administration, but also to assure that the citizen shall have his rights decided by a body of men whose security of tenure is a safeguard against the shifting currents of political opinion". The decisions of administrative tribunals, if not subjected to the scrutiny of higher judicial bodies, would tend to become Government-biassed and arbitrary and would undermine the confidence of tax-payers. If appeals from the decisions of the administrative tribunals are granted but confined only to matters of law, this would grant a free charter to the tribunals in matters of fact and there would be no guarantee against misuse of power. It is not sufficient if justice is administered, but the public should be made to feel that justice is being ensured. The principle underlying the separation of the Judiciary from the Executive is based on this maxim and the setting up of administrative tribunals would be a retrograde step in the efforts at such separation.

It appears that the idea of constituting Administrative Tribunals has emanated from the study of conditions in France. It is rather surprising that a country with a constitution based more on the lines of the United Kingdom should think of adopting certain measures from the constitution of a country where conditions are totally different. Whenever a measure of some importance is to be introduced, a justification is sought from the constitution of one country or the other. Instead of having enactments which could be justified by themselves, enactments are thought of and the justification is sought somewhere to be fitted in. In England, there are no Administrative Tribunals of the nature now contemplated for the disposal of questions arising out of the administration of fiscal laws and in respect of the very

limited number of tribunals (the number being only 10) a Committee recently appointed in the United Kingdom examined the working of those tribunals and has already submitted its report. This Committee was presided over by Sir Oliver Franks, former British Ambassador to the United States of America, and it was composed of lawyers, Members of Parliament, constitutional specialists and independent persons. Even in respect of such special tribunals the recommendations of the Committee cover three basic characteristics, (1) that they should manifest openness which require publicity of proceedings and knowledge of the essential reasoning underlying a decision; (2) that they should show fairness which calls for a clear procedure that enables parties to know their rights, to present their cases fully and to know the cases they have to make; (3) that they should display impartiality which requires the freedom of the Tribunals from the influence, real or apparent, of the department concerned with the subject-matter in their decision.

At a time when the relations between State and citizen have become complex, the citizen should not be made to suspect that Government is attempting to take away his inherent rights. They should have a sense of security and a sense of fairness of trial and justice being meted out. It should be remembered that special tribunals under the special Acts have to be thought of as independent organs of adjudication and not as part and parcel of the machinery of government, and in respect of fiscal matters it is an absolute *must* that the citizen should have the right of redress in a Court of Law. He should certainly not be placed in a very awkward and a very difficult position of getting decisions from the so-called Administrative Tribunals which are bound to be more or less departmental in substance although on the exterior they may appear to have a different set-up. The three conditions requisite about openness, fairness and impartiality would be very difficult to maintain in the very set-up of such tribunals and I would, therefore, strongly urge upon Government the need of dispassionately examining all the implications. Government, in view of the observations which I have made, should in the first instance have the proposal for Administrative Tribunals thoroughly examined by a body of experts and after the implications are so fully analysed, Government should elicit public opinion before taking a final decision in the matter.

*Speech of Shri Naval H. Tata, President, at the Third Quarterly General Meeting of the Members of the Indian Merchants' Chamber held on Monday, the 23rd December 1957.*

**FRIENDS:**

The summarised reports of the work done by the Committee during the Third Quarter of the year have been circulated to members through the medium of the Monthly Journal of the Chamber.

*Food Situation:*

The country is once more faced with a serious food situation. It is really disquieting to find that in spite of crores of rupees sent on the Grow More Food campaign since it was launched in 1943-44, in spite of the firm base imparted to the structure of Indian agriculture during the years 1952 to 1955 and in spite of the tremendous energy and expenditure devoted to agricultural extension services and the community development projects over the last three years, Indian agriculture still remains at the mercy of monsoons. Just one season of drought and inadequate rainfall has been enough to throw our economy into a vortex of scarcity, rising prices, famine and near starvation conditions in certain areas. The phase of Indian agriculture, which was promising at one time, has now given way to despair. The crisis which faces the country at the present time has, besides accentuating the pressure of our foreign exchange resources, also upset the Plan calculations by giving a start to inflationary tendencies in the economy. It has emphasized the point that scarcity of food is the greatest structural bottleneck in our plans for industrial expansion and that success of our plans demands as a pre-condition, a solid agricultural base.

The Foodgrains Enquiry Committee, presided over by Shri Asoka Mehta, which recently examined the problem in all its aspects, has submitted its Report which is distinguished for scholarly approach and objective and scientific analysis of all important issues relating to food policy. While some of the suggestions of the Committee for encouraging production and consumption of subsidiary foods and for stepping up food production by greater irrigation facilities, improved seeds and fertilizers should meet with general approval, its suggestions in the sphere of price stabilisation however call for a radical change in Government's approach. It has also recommended expeditious enactment of land reform legislations and their effective implementation by the State Governments so as to stimulate

productive effort and has urged a nation-wide campaign for family planning with a view to controlling the population growth. The Committee has expressed the view that the revised targets of additional foodgrains production are no longer realistic and that, as against the target of 15.5 million tons, the achievement would be only about two-thirds of it. It has thus anticipated a continuing overall deficit in foodgrains over the next few years and that for the next five years we shall have to provide for imports of two to three million tons annually involving a burden of Rs. 100-150 crores a year on our exchange resources.

It is imperative that, so far as the food situation is concerned, we should not leave anything to chance, and effective ways and means should be devised to meet the immediate emergency. In this context, I welcome the Committee's suggestions for (a) maintaining a minimum reserve of two millions tons of foodgrains, (b) building up of a buffer stock, and (c) suitable machinery for strategic controls over prices, all as part of permanent arrangements against any emergency on the food front. By effective short-term measures within home and by imports of the requisite quantities of foodgrains from abroad, the Government have to tide over the present crisis. But the country cannot continue for long to rely on imported foodstuffs for feeding her population which would eat away a large slice of our foreign exchange resources to the detriment of our development plans. Some permanent solution has to be worked out for attaining a state of self-sufficiency in the matter of foodgrains and long-term measures designed to achieve this objective have to be set into motion with dynamic zeal and concerted drive. If need be, even the emphasis in the Second Five-Year Plan should be shifted to achieve this objective, as the whole progress of the country, our plans for industrialisation, etc. depend ultimately on agricultural production, more especially of cereals. That is the foundation on which everything else has to be built.

The Asoka Mehta Committee has towards this end laid great emphasis on greater reliance on minor irrigation projects, use of fertilizers, improved seeds, differential levy of water rates, etc. It believes that by the increased use of fertilizers and manures and improved seeds alone nearly one-half of the revised target of a ten million ton increase in food production during the Second Plan period could be achieved. The Government of India have not formulated their views on the recommendations of the Asoka Mehta Foodgrains Enquiry Committee, as the Report has been circulated to State Governments for opinion, and it is too early

now to anticipate their reactions. I, for one, however find that the Committee seem to have been too pre-occupied with the problem of price stabilisation and its recommendation for the setting up of the Foodgrains Stabilisation Organisation designed to achieve overall control over demand and supply of foodgrains through purchase and sale operations in the open market and for a progressive and planned socialisation of the wholesale trade in foodgrains seems to me to be impracticable. For a country of India's size and character, it is an inconceivable proposition to visualize such a giant monolithic organisation controlling the entire wholesale trade in foodgrains. While under the normal distributional set-up, individual mistakes or miscalculations tend to cancel each other, any mistake or miscalculation on the part of such an organisation might assume a colossal shape and might involve the country in heavy loss. It will be too heavy a price for achieving price stability for foodgrains. The long-term trend of prices must necessarily be determined by the overall relationship between supply and demand and no Stabilisation Organisation can hope to keep prices down if demand greatly outruns supply. It is therefore vitally important to see that the supply base is widened by concentrated efforts on increased production. As has been rightly emphasized by Pandit Nehru in his speech at a meeting of the Congress Parliamentary Party recently, the real solution to the food problem facing the country lay in increasing the yield per acre and the best short-term method is to concentrate on intensive cultivation of about 55 million acres of land in the country fed by irrigation and another 45 million acres assured of water supply from other sources.

Another aspect which is closely connected with the food situation is the effect of fluctuations in the prices of foodgrains on the cost of living. In view of the great inflationary potential of a continued rise in prices of foodgrains in industrial and urban sectors, I am of the opinion that some distributive device should be worked out, whereunder the industrial workers and employees of large commercial and industrial organisations would be assured of their requirements of food through their employers as part of their wage bill. Unless and until we thus organise ourselves to supply food direct to the industrial workers through their respective employers and initiate a system of expressing their wages in terms of units of food, clothing etc., it will be difficult for the economy either to hold the wage line or keep down the price line in periods of shortages and scarcity. Only if we are in a position to satisfy the minimum requirements of food, clothing, etc. of the workers, we would be successful

in putting a stop to the clamour for higher wages by the very vocal section of our population represented by two million industrial workers and halt the vicious circle of wages chasing prices. This aspect of the problem deserves to be seriously examined by Government in all its implications.

The present food crisis is a challenge and we have to face it on a national scale. It should be possible for our cultivators not only to achieve the revised target of 15.5 million tons, but even double our food production over the next five years, provided all of us apply ourselves to the task in a spirit of co-operation, determination and dedication. As has been rightly emphasized by the Asoka Mehta Committee, what is needed is a sense of urgency and mobilisation of popular energies on a national scale transcending regional and party considerations. The country has faced and overcome many challenges in the past, and I express the hope that, given the united will, we will be able to attain the goal of self-sufficiency in foodgrains much sooner than at present anticipated.

#### *External Assistance:*

As you are already aware, with the rapid depletion of our foreign exchange resources, we have been confronted with a veritable crisis in our balance of payments position and the consequent imperative need for exploring avenues for external assistance to tide over the difficult situation. As stated by the Finance Minister, our minimum requirement of foreign exchange for putting through the core of the Plan will be of the order of Rs. 700 crores. In the meanwhile, the acute position in respect of foreign exchange resources has compelled a drastic pruning of imports and a rigorous enforcement of deferred credit terms for the import of capital goods both in the private and in the public sectors. The seriousness of the situation is reflected in Government's determination to cross the hump in foreign exchange difficulties by drastically slashing down the statutory minimum currency reserve for the Indian Rupee to Rs. 200 crores, including Rs. 115 crores in Gold.

It is against this background that our Finance Minister visited important countries like the United States, Canada, the United Kingdom and West Germany, with a view to assessing the prospects of obtaining medium-term and long-term economic assistance for carrying through the Second Five-Year Plan to the greatest extent possible and to create greater understanding of India's economic problems and aspirations amongst the people

of those countries. It can be safely stated that he has been successful, in a large measure, in removing misapprehensions and misunderstandings regarding our basic policies and principles and approach to the problem of economic development in general and nationalisation and the role of private sector in particular. This is indeed a great psychological achievement. However, he naturally could not be more definite as to the quantum of aid that might be expected from these countries. In this context, he stated, "we will get sizeable assistance from the United States and West Germany and from International Bank to help us in our present position". It is indeed true that the Bank and the Monetary Fund have been taking keen interest in the development of our economy. At present, India is the largest borrower from the Bank representing a little over 10 per cent of its total lendings, viz. 3,300 million Dollars. However, the question of foreign aid is likely to be conditioned by some of the recent developments, viz. the tight money conditions in the United States, fear of inflation, their domestic policies and, above all, the attitude of the Congress in respect of the question of the foreign aid in general. Despite these developments, it is possible that we may get assistance from the newly-constituted Development Fund, from Export-Import Bank, and assistance in the form of surplus commodities under the U.S. Public Law 480.

The Finance Minister has rightly emphasized the important role foreign investment can play in the economic development of the country and has also afforded assurances while in the U.S.A. and other countries, so as to facilitate the flow of such investments either in the form of loan capital or in the shape of venture capital. I should like to refer here to the commendable work done by the Indian Industrial Delegation, sponsored by the Federation of Indian Chambers of Commerce & Industry, in establishing contacts with foreign industrialists and creating a suitable climate abroad for investment in this country and exploring the possibilities of obtaining commercial credits and collaboration agreements to set up new industries. They concentrated their main efforts on the United States, since they realised that substantial relief in the shape of credits and investments to India could come through that country only. As revealed in their Report, the Delegation had to deal with serious doubts and misgivings about our economic policies, entertained by the American investors, the top Bankers and Industrialists and other important sections both in the political and economic spheres. While some of the complaints appeared to be un-

founded and others slightly exaggerated, the Delegation found that many of them were genuine. Doubts and misgivings, which acted as serious deterrents, were: the fear of nationalisation without substantial compensation consequent upon the amendment to the Constitution, high taxations stifling the private sector, the encroachment of the State Trading Corporation, undue interference by Government, fear of labour troubles, double taxation, the Compulsory Deposit Scheme, Wealth Tax particularly on Companies, tax on Royalties, Companies Act, Income-tax exemptions for foreign technicians, and several others. The Delegation did very useful work in clarifying several issues of policy and particularly in highlighting the performance of the Private Sector and its capacity to deliver the goods in the future. The Finance Minister, it must be added, also contributed a great deal in instilling a feeling of confidence by his statements in the United States that the future role of the private sector would be double that of the public sector. The best way, therefore, to maintain the favourable atmosphere created for attracting new investments from the foreign countries would be prompt implementation of the assurances. As rightly pointed out by the Delegation, "ultimately the foreign investor shall judge us by our actions and not so much from what we declare to be our policy".

The Delegation has struck a note of optimism in respect of suppliers' credit as also attracting investments from the United States and they have expressed the hope that given the necessary conditions, the private sector would be in a position to utilise these facilities which can go a long way to relieve the Government's burden in respect of Exchange position for future expansion. But they have also referred to the fact that the extent of our capacity to avail ourselves of these facilities largely depends upon our 'ability to raise money in India itself without which it would be impossible to utilise credits from abroad'. According to the Delegation, the key to the whole problem lies in India and not foreign countries as far as the requirements of the private sector are concerned. They have, therefore, urged that the Gordian Knot must be first cut by creating a healthy and vigorous domestic capital market, thereby mobilising internal capital and thus providing an appropriate psychological climate for attracting foreign investment. As the conditions obtain today, they have stated in no uncertain terms that it is impossible to raise any substantial equity capital even with the best of efforts. It would, therefore, be in the interest both of Government and the private sector that every effort is made to

mobilise internal resources and towards that end necessary climate is created by suitable orientation in our monetary and fiscal policies.

We have undertaken a tremendous task of national reconstruction through a planned programme of economic development and, in that task, I have no doubt that, given the necessary atmosphere, both public and private sectors can play a really vital role. We have accepted the concept of a mixed economy and, if a proper balance is maintained between the two sectors without any ideological predilections, we can hope to achieve our objectives in a substantial manner. In my view, there is no basic incompatibility between the public and the private sectors. Under the new Companies Act, private undertakings have been brought under greater scrutiny of the public than the so-called public sector whose balance sheets and annual reports are not so readily available to the general public. In my opinion, there exists ample room for a healthy collaboration between the two and a great deal of mutual suspicion can be removed by evolving a new pattern which may be based on partnership between Government and the private sector. The Government can hold 49 per cent of the total capital and the private investors 51 per cent, with the proviso that the Government would have the right of securing at any time, if so desired, a further 2 per cent. Government may thus also get the controlling voice in the management. We had already such a pattern in operation in the original set-up of Air-India International, but unfortunately the same was abruptly terminated on the plea of nationalisation of Air Transport. I believe that it is not yet too late to revive this concept for a number of new basic and subsidiary industries, which the Government propose to set up. At a time when the hands of the Government are full with a number of projects and there is an admitted paucity of suitable personnel, it would be of immense value to the nation to man all new industrial projects under the joint stewardship of the representatives of the Government and the private sector. Leaving aside certain strategic industries which may not lend themselves to this treatment, there is great scope in other public sector enterprises, where healthy partnership can usher in a new era in the economic development of our country. Psychologically, there cannot be a better form of co-operation for the fulfilment of the Second Five-Year Plan than such joint ventures and collaboration by the Government and the private sector.

*Labour Productivity:*

Friends, you will agree with me that in the face of the great difficulties to which I have just referred it is incumbent on all of us to attach particular importance to the problem of increasing labour productivity. Greater productivity is one of the most effective solutions available to us to contain the prevailing cost inflation and foreign exchange scarcity. Experience of the industrially advanced countries of the West has shown that economic progress and improvement in living standards are the direct concomitants of an increasing rate of productivity. It is increased production per unit, without any undue inflationary rise in the costs, that can bring about increase in the total wealth, which, in turn, can mean real improvement in the standard of living of the people. We must, therefore, devise active and vigorous measures to step up productivity, both in our agriculture and industry. In recent years, great stress has been laid on increasing productivity in countries like Japan where labour productivity in the last nine years has gone up by more than 300 per cent.

It is indeed gratifying that the representatives of employers, trade union organisations and other technical bodies at a recent Seminar held in New Delhi have shown a commendable sense of responsibility by guaranteeing full co-operation in giving effect to the principles and programmes for a national productivity movement. This programme, as you are perhaps aware, envisages the establishment of a National Productivity Council, Local Councils, and if and when necessary, Productivity Committees for different industries. The movement is to be set in motion by January next. The National Productivity Council, charged with the responsibility of rousing productivity consciousness through various means such as undertaking of surveys and provision of service and experts in the execution of projects for raising productivity, etc., can be expected to play a significant role in accelerating the pace of industrialisation. This Council is initially to apply itself only to the field of industry, including communications and transport. The objectives of such a drive to my mind, should be to increase production and improve quality by better techniques which aim at efficient and proper utilisation of the available resources of men, machines and materials, power and capital.

Friends, as you might have noticed, our national effort, supplemented by international assistance, is making slow but perceptible changes in the economic and social life of our people.

In this context, I would particularly like to take note of the important work done by the International Labour Organisation. The I.L.O. has devised various measures specifically directed towards improving productivity. As part of these measures, several Productivity Missions were sent out to some of the under-developed countries. The essential purpose of these Missions was to demonstrate how, by the application of modern management techniques and industrial engineering methods, better use could be made of the resources available to industry without additional large-scale capital investment. These Missions also aimed at training the personnel of the countries to which the Missions were accredited, and this, to my mind, was a valuable work. Israel was the first country to receive an I.L.O. Productivity Mission in 1952, and this has been followed by Missions to India, Egypt, Pakistan, Hong Kong, Ceylon and other countries. I hope that these Missions, by concrete results, scientific study and research would be able to remove the existing misconception in the minds of some in India that the productivity drive will increase work-loads, intensify the burden on labour or drive them to greater speed-up and that it will lead to redundancy of labour adding to unemployment, etc.

As has been very rightly commended by Shri G. L. Nanda, Union Minister for Planning, Labour and Employment, by a further intensification of its operational activities, which involve providing member-Governments of this Region with expert advice and technical assistance in matters connected with increasing productivity, development of training facilities, etc., the I.L.O. can help under-developed countries achieve a higher rate of progress.

While principles and programmes for a national productivity movement as enunciated at the Seminar held last month are, no doubt, laudable, the success of the movement, I must mention, ultimately rests on the co-operation of labour in this country. Friends, at no time in the recent past have labour questions been discussed more repeatedly and with greater sense of urgency than now. Particular stress requires to be laid on good Labour-Management relations which, as it was very rightly pointed out at the recent I.L.O. Asian Regional Conference, is indispensable for raising productivity in industry and thereby the standard of living of workers. But unfortunately, it is not the external economic forces alone that our country has to conquer. In recent years, inflationary pressures and food shortages due to failure of crops have brought about rise in prices and living costs which have led directly or indirectly to the present

industrial unrest. The result has been that the Labour Ministry of the Government of India is inundated with requests and representations for straightening out numerous trade disputes, which are mainly of the wage-discontent type. To my mind, the atmosphere is certainly not very congenial for those whose task is to maintain industrial peace in this vast country. I am firmly of the opinion that most of the labour troubles are mainly the result of the present economic disequilibrium, and the remedy rests with the Finance and Food Ministries of the Government of India more than with the Labour Ministry. Despite continued attempts to put in order our wage structure with the aid of more tribunals, wage boards and discussions by the Steering Group on Wages which the Government have recently set up, the wage structure continues to be elusive. To my mind, no amount of patched-up wage structure will remedy the industrial unrest, unless and until the basic shortage of food is removed and the current inflationary trends are checked by fiscal and other similar measures. The only remedy for correcting this growing imbalance in the economy is to achieve a higher rate of productivity to match the impact of rising demand resulting from our increased development expenditure.

#### *Sales Tax Enquiry Committee:*

The Commercial Community of the State have welcomed the long-awaited announcement regarding the appointment of a Sales Tax Enquiry Committee by the Government of Bombay early this month. The Committee is headed by Shri Babubhai J. Patel, an ex-Minister of the State of Bombay and consists of nine other Members including some non-officials representing trade, commerce & industry. The terms of reference to the Committee are (1) to recommend a system of sales tax applicable to all the component units of Bombay State in replacement of the various sales tax laws now in force, keeping in view, the revenue requirements of the State for the due fulfilment of the Second and successive Five-Year Plans; and (2) to examine the systems of administration of the sales tax laws and to indicate in what respect they can be improved, so as to simplify the procedure in assessment of sales tax, ensuring at the same time avoidance of evasion of tax. It is hoped that the Enquiry Committee will, after ascertaining the considered views of the different sections of the Commercial Community in the State and other interests concerned, be able to evolve, for uniform application to all the component parts of the State of Bombay, a Scheme of sales tax, simple in character, which will be intelli-

gible to all those who are concerned with it in their day-to-day business and which will not involve complicated procedural formalities.

*Speech of Shri Gopaldas P. Kapadia, Vice-President, at the Third Quarterly General Meeting of the Members of the Indian Merchants' Chamber held on Monday, the 23rd December 1957.*

FRIENDS:

You have listened to an interesting speech by the President dealing with some of the important problems at present engaging our attention. I would like to supplement the same by referring to some matters of topical interest.

*Recommendations of the Finance Commission:*

In terms of the provisions of the Constitution of India, certain taxes which are in the first instance collected by the Union Government have to be divided and shared between the Union and the States. The basis of the division and its subsequent allocation to the different States is subject to a quinquennial review by the Finance Commission specially appointed for the purpose. On the recommendations of the first Finance Commission, a formula of division and allocation had been evolved which, from the point of view of the States, was not considered to be very satisfactory. In particular, the share of income-tax, viz. 55% of the divisible pool accruing to the States, it was felt, did not take due note of the expanding needs of the States in relation to the increasing obligations cast on them by the developmental and nation-building activities, included as part of the programme of planned development. In the case of a State like Bombay particularly, the arrangement under the basis of division postulated by the first Finance Commission had become grossly unfair by reason of the addition to the State of large areas, less developed, by the merger of new territories on account of States Reorganisation. The States, therefore, were looking forward to a review by the second Finance Commission for a desired measure of relief in the matter of increasing their divisible share so as to give a greater measure of resilience to their budgetary position. After all, in terms of the existing devolution of tax resources, the tax heads on which the States have to rely, are comparatively inelastic and they have inevitably to look to a greater share from the division of taxes like income-tax and excise for any significant increase in their aggregate revenue budgets. Broadly speaking, the recommenda-

tions of the second Finance Commission, it can be claimed, have taken due note of the States' case for enlarging their sources of revenue. The Commission's main recommendations are designed to achieve that objective. The divisible pool of income-tax has been raised from 55% to 60% and in the matter of excise revenue, more excise duties have been brought within the divisible list. The Commission has expanded the shared list of Union Excise Duties by adding items such as sugar, tea, coffee, pepper and non-essential vegetable oils. Although at present excise is levied by the Union Government on 29 commodities, till now only proceeds of duty on matches, tobacco and vegetable products were subject to the process of division. At the same time, with the expansion of the divisible list, the percentage yield distributable among the States has been reduced from 40 to 25. The overall effect of the new basis of division is that during the next five years commencing from 1957/58, the States would get from Central Taxes 50% more than what they got during the previous five-year period.

When we come to an examination of the principle followed in apportioning the relative shares of the various States, I must confess that a State like Bombay cannot but feel disappointed at the fact that the Commission has been less objective in what they have adumbrated and recommended. In regard to the main criterion regarding distribution of income-tax, the factor of attributability in determining the share of an individual State has been pushed aside in favour of population. The extent of the set-back which Bombay would suffer as a result of the new allocation can be understood if we compare the present position with what was obtaining previously. The first *ad hoc* arrangement immediately after the Partition of the country had fixed Bombay's share as 21% of the divisible pool. The subsequent Deshmukh Award also continued this State's share at the same level. As a result of the first Finance Commission's recommendation, the share of Bombay was fixed at 17.5 per cent. The interim recommendation of the second Finance Commission increased it to 18.5 per cent. It is, therefore, somewhat disconcerting to find that the second Finance Commission has fixed Bombay's share at 15.9% notwithstanding the fact that after the States Reorganisation the population of the State which, at the time of the Deshmukh Award, was 3.5 crores, has increased to 4.8 crores.

In the matter of distribution of revenue from Excise, as mentioned earlier, the list of commodities has been expanded. But the share of the States collectively of such revenues has been

reduced from 40 to 25%. Here also, the percentage of allocation as between the different States will be determined on the basis of population. Normally Excise is understood to be a tax on consumption and it was generally expected that in the process of distribution due weightage would be given to the factor of consumption.

It is however in respect of the recommendations of the Commission in regard to central grants-in-aid that Bombay will have a special reason to nurse the grievance that it has entirely overlooked its case in spite of the fact that it merited consideration in the background of its performance and efforts at self-dependence. It is necessary here to recall the relevant portion of the terms of reference to the Commission.

"The Commission shall, in addition to making recommendations as to the matters specified in sub-clauses (a) to (c) of clause (3) of Article 280, make recommendations as to the following matters, namely:

(a) .....

(b) the States which are in need of assistance by way of grants-in-aid of the revenues of those States under Article 275, and the sums to be paid to those States, having regard, among other considerations, to:

- (i) the requirements of the Second Five-Year Plan, and
- (ii) the efforts made by those States to raise additional revenue from the sources available to them.

(c) .....

(d) ....."

As will be noticed, the Finance Commission was specifically required to take into consideration the efforts made by a State for securing revenues for financing its developmental projects from its own resources. The first Finance Commission had in fact recognised this principle, but the second Finance Commission while referring to the same as "unexceptionable" have in effect ruled it out of consideration by stating that "it is difficult to decide whether a State is taxing its people adequately in relation to their income and taxable capacity". It has, however, been conceded that "If a State raised additional revenues which it has promised for the Plan, it will have done its part", and this point, I submit, is more germane to the issue under consideration. The targets of additional taxation were determined by the Planning Commission obviously in consultation

with the States after taking into consideration all the relevant factors including one relating to their income and taxable capacity. For the First Five-Year Plan, the State Governments were set to find resources, through additional taxation of the order of Rs. 235 crores. The actual performance has however lagged far behind and the aggregate tax effort amounted to only Rs. 89 crores. In the background of this unsatisfactory position, the performance of Bombay State was really commendable in exceeding the First Plan target of Rs. 23.5 crores by Rs. 5 crores. Surely, this performance of the State should have received due consideration at the hands of the Commission. The Commission however has felt that Bombay will be able to meet its current as well as Plan expenditure with the help of revenues to be derived from other divisible sources and on that ground has not deemed the State eligible for any Central aid. It is, however, significant that the Government of Bombay have budgeted for a revenue deficit of Rs. 3.17 crores for the year 1957/58. The Commission, on the other hand, has worked on the assumption that there would be a surplus of the order of nearly Rs. 6 crores in the current year. It would, therefore, be interesting to know the reason underlying this disparity in estimates. It is likely that the State Government would be making enquiries of those concerned as to the circumstances under which the revenue position has been over-estimated in the calculations appended to the Report of the Commission. The needs and requirements of the State consequent upon reorganisation have increased and at least in the initial period it is bound to be confronted with financial difficulties. These difficulties strengthen the claim of the State for an adequate allocation of grants-in-aid to its revenues and the Commission should have taken the same into consideration.

As observed earlier, the recommendations of the Finance Commission have been accepted by the Government of India and are in the process of being acted upon. We would however be failing in our duty if we did not emphasize these aspects, for, in essence, they really imply that the people of Bombay should be prepared to suffer a set-back to its developmental programme or should be ready to undergo a still heavier burden of State taxation. After all the present developmental plans of the State are modest enough. To cite one instance, not a single multi-purpose project has been included in the State's developmental plans. The major projects, viz. Koyna and Ukkai could easily have been designed as multi-purpose projects, which would mean substantial addition to the existing resources.

for power and irrigation in the State. With the increased responsibilities of a bigger Bilingual State, with several backward regions added on to it, it would be difficult for the State, to fulfil its commitments, as also effect further improvements, with the available resources. It is a matter for serious consideration whether the economic progress in the State which is ensuring to the benefit of the country as a whole should be allowed to virtually suffer till such time as the level of advancement in economically less advanced regions is sufficiently raised. It is unfortunate that although the Finance Commission recognised the importance of and need for strengthening the resources position of the State by revising the basis of distribution in favour of the States as a whole, in the case of a State like Bombay considerations such as the State's record of effort to fulfil its developmental targets and raise increased tax resources for the same, its extended obligations on account of the merger of comparatively backward areas following the scheme of re-organisation, its special obligation as an industrially advanced State in the direction of providing improved communications, social amenities and the consequent economic overheads, have all not been given due weight in determining the percentage of allocations as between the different States.

#### *Transport Development:*

It is an obvious fact that for a country of such vast dimensions as India transport facilities are woefully inadequate. All forms of internal transport, whether it is Railways, Coastal Shipping, Roads or inland waterways, have all not sufficiently developed to such a level as would jointly be in a position to adequately meet the traffic demands both on account of goods as also passengers. On railways, of course, falls the major burden of providing goods and passengers transport in the country, but on the basis of population spread over such a vast area, the extent of Railway Development has been low, when compared to other advanced countries. The position in regard to other means of transport is, if at all, still more unsatisfactory. These deficiencies in the transport system of the country existed even before the Second World War; perhaps they were not then sufficiently emphasized. Any serious effort to arrest that trend and to bring about a moderate improvement in the position was made during the First Plan period. It was only towards the end of the Plan period that the country realised the dismal inadequacy of the transport system to meet the needs of the developing economy. It was increasingly realised that unless transport was sufficiently developed in the Second Five-Year

Plan, in a manner and to an extent as would ensure full movement for backlog of traffic demands as also for the new traffic generated by the schemes during the Second Five-Year Plan period, there was the risk and danger of the very success of the planned effort at the development of the economy being jeopardized.

It was because of this realisation that the Railways were allocated a substantial share of the total investment envisaged under the Second Five-Year Plan although the same cannot be said of the targets of development laid down for other spheres in the transport economy.

Even with the comparatively large investment, it was clear that Railways would not by themselves meet the entire requirements in the matter of transport. It is in this context that the need for an integrated and co-ordinated growth of the various transport agencies has to be assessed. It is a matter of satisfaction to note that the Authorities are alive to the problem and that it is contemplated to set up suitable machinery to assist the progress of the means of internal transport, such as roads and internal waterways. It is, however, necessary that such a machinery is invested with necessary authority to chalk out a purposive and co-ordinated programme of development and vigorously pursue the same with a view to achieving not only the physical targets envisaged under the Plan, but, in the process, bring about such co-ordination as would permit the transport system of the country to grow to a stature large enough to permit expansion of other fields of the economy which is so vitally dependent upon the availability of transport.

The Conference on Transport held early this month under the auspices of the Federation of Indian Chambers of Commerce & Industry has served the purpose of emphasizing the importance of transport moving in advance of development in other fields of the economy. In fact, adequate transport facilities and economic development are inter-dependent, and bottlenecks in transport will inevitably prove to be a source of great handicap in an economy which is constantly developing and moving forward. The recommendations of the Conference are also comprehensive and broadly indicate the directions in which each form and mode of transport requires to be strengthened both as a short-term measure and as a step for evolving a long-term transport policy.

In the sphere of Railways, after indicating the need for increasing the capacity and the resources of the Railway system,

the Conference has rightly outlined methods by which the operational efficiency could be augmented, by steps such as increasing loads of wagons, securing quicker movements and turn-rounds, procedural simplification, facilities for specialised movements, diversion of traffic by concessional rates, etc. In the matter of Road Transport, the recommendations of the Conference are equally impressive. Among other things, they have urged the importance of creating a better climate for development of motor transport by a revision of the policy of nationalisation of goods transport as also of licensing of public carriers. Apart from suggesting a rationalised scheme of motor vehicles taxation so as to reduce the present heavy tax incidence, the Conference has suggested the setting up of an inter-State Transport Commission for securing a co-ordinated road transport policy. In dealing with Shipping, the Conference has rightly drawn attention to the larger aspects of national policy which have governed our developmental effort in this sphere. After urging speedy efforts for increasing our shipping tonnage and for providing the necessary funds for meeting the cost of that tonnage, the Conference has pointed out the steps which require to be taken for securing to Indian shipping, apart from the full share in the coastal trades, a 75 per cent in the adjacent trades and a 50 per cent in the overseas trades of the country.

Government are committed to a policy of giving first preference to Indian shipping for the carriage of their cargo. It is a matter for concern, however, that certain quasi-Government agencies are not zealous in strictly observing this practice and procedure. The State Trading Corporation, it would appear, is not showing that degree of insistence in ensuring that supplies and goods shipped or moved for and on behalf of the Corporation are invariably carried in Indian bottoms. Reports have also appeared currently that the STC is thinking in terms of acquiring or chartering its own vessels for the movement of its shipments. It is difficult to appreciate the justification for such an extension in the activities or scope of the Corporation. In the context of the limitations visible in our over-all resources position and the difficulties faced in the matter of foreign exchange particularly, one can readily realise the need for a re-adjustment in the rating of priority given for developmental efforts in the different segments of the economy. At the same time, it is necessary to bear in mind the inter-dependence of transport and economic development as a whole and, on that basis, to take all essential steps to vouchsafe that the economic growth of the country is not impeded by inadequacy of transport facilities.

*State Trading:*

The First Report of the State Trading Corporation was published in the last month. A good deal of interest attaches to the Report having regard to the fact that the establishment of the State Trading Corporation last year had given rise to controversy as regards the propriety of the action taken by Government to set up an organisation for engaging in the foreign trade of the country. Although the Corporation was originally conceived for the purpose of carrying on trade with the countries in which trade is handled by State agencies, from the Report we find that it has widened its scope and area of operations. The Corporation has engaged itself in the export and import of a wide variety and range of goods. In addition, it works as an agent on behalf of the Government for the distribution of cement and some other commodities. The total turnover of the Corporation, apart from the items handled by it on commission agency basis, has been of the order of nearly Rs. 10 crores. The turnover of cement on Government agency account exceeded Rs. 55 crores. The gross profit of the Corporation on account of trading amounted to Rs. 35.42 lakhs. The Corporation derived an income of Rs. 69 lakhs from its commission agency business and from service fees. Profits from interests and other miscellaneous items aggregated to Rs. 5.76 lakhs. The net profit of the Corporation amounted to Rs. 32.63 lakhs. The Corporation has declared a dividend of 6% for the first accounting year ending 30th June 1957.

In purely financial terms the result of the working of the State Trading Corporation during the year under report would thus appear to be impressive. It is, however, worth noting that the Corporation was enabled to make a large profit from its business as commission agents on behalf of Government for the distribution of imported and indigenous cement. This part of the Corporation's business has come in for a good deal of comment and criticism. There is a general feeling that the profit made by the Corporation in its business as Commission Agent of the Government for the distribution of cement is out of all proportion to the actual service rendered by it to the consumers. The distribution of cement was entrusted by the Government to the State Trading Corporation with a view to enabling it to import cement and to acquire indigenous cement and to sell both at equalised price so as to balance the high-priced imported cement against the low-priced indigenous cement. Actually, however, owing to shipping difficulties, far less quantity could be imported from abroad than expected earlier; imports were

of the order of barely 2½ lakhs tons during the year under review. Even so, the price of all the 50 lakh tons of domestic cement was raised by as much as Rs. 12·8 per ton over the price prevailing before the State Trading Corporation entered the field of distribution of this product. The establishment of a State-controlled monopoly over the trade in cement has, apart from enabling the State Trading Corporation to earn large profits, resulted in an unearned income of Rs. 5 crores for the Government at the expense of the consumers of cement in the country.

Mineral ores have constituted the major portion of the Corporation's export business. The Report states that it took the management many months before this business could be placed on a sound footing. The Corporation contracted to sell a total quantity of four lakh tons of manganese ores to the foreign buyers during the period under review. As regards iron ore, firm contracts for the sale of 2.8 million tons were concluded by the Corporation during the year under report. During that year, the Corporation also entered into a long-term arrangement with Japanese Steel Mills for the sale of 7.2 million tons of iron ores over a period of five years, against which 1.3 million tons were to be supplied in the year 1957/58. Another contract for the sale of half-a-million tons of iron ore was entered into with Czechoslovakia and substantial quantities were contracted to be sold to Poland, Yugoslavia and Hungary.

The Corporation's business in the manganese ore has evoked adverse criticism. In the early stages, the officials of the Corporation were more anxious to conclude contracts with foreign buyers for supplying large quantities of high grade manganese ore at a price which was lower than the price ruling in the export markets which were exceptionally firm and strong at that time. In its anxiety to secure large orders it did not pause to consider whether it was able to supply the goods according to the orders and according to schedule, with the result that on some occasions when steamers chartered by the importers arrived at the Indian ports to carry the contracted quantities of manganese ore, it was found that the Corporation had no stock on hand. Ultimately, when the Corporation thought of buying the ore locally in order to fulfil its commitments it had to pay higher prices for the supplies. It is also alleged that the Corporation forgot to insert a clause in the contract with the foreign buyers that if and when any duty was levied by the Government of India, the same would be borne by the buyers. The result was that when an export duty was actually levied by the Government in September 1956, it had to be borne by the

State Trading Corporation itself and could not be passed on to the buyers who refused to bear the fresh burden. It is further alleged that the Corporation has not succeeded in selling low-grade manganese and iron ores in the export markets in any appreciable quantities. The Corporation should well have followed the accepted business practice of the normal trade channels of selling medium and low-grade manganese and iron ores, along with high-grade qualities, so as to make mining of ores an economic proposition.

All the same, in fairness to the Corporation it must be said that it has lately shown improvement in its working and efficiency. It is endeavouring to develop markets for some new items such as shoes and woollen fabrics. It has sought to evolve acceptable terms and conditions for the export of new items and to assist producers in making available goods of acceptable quantity. In particular, small producers of shoes and handicrafts have been enabled to participate in the export trade. The Corporation is also endeavouring to promote overseas trade in special items or with particular countries by a scheme of linking of exports with imports. The Corporation has also evolved a scheme for increasingly associating private traders with its activities. The Commission and/or brokerage charged by the Corporation is, however, in many cases disproportionately high and early steps should be taken to reduce the same to reasonable levels. Instead of taking over or entering any spheres of trade which has been well established and functioning through the normal channel, the Corporation should confine its activities to spheres of a pioneering character designed to create new opportunities for the trade or for the country.

## APPENDIX 56

### **Speech of the President of the Chamber and the Address of the Prime Minister Jawaharlal Nehru on the occasion of the Golden Jubilee Celebrations on 3rd February 1958**

*Speech of Shri Naval H. Tata, President, Indian Merchants' Chamber, on the occasion of the Golden Jubilee Celebrations of the Indian Merchants' Chamber, on 3rd February 1958.*

**PRIME MINISTER JAWAHARLAL NEHRU,**

**DISTINGUISHED GUESTS AND FRIENDS:**

On behalf of the Members of the Indian Merchants' Chamber, it is my pleasure and privilege to extend to you, Sir,

and all others present here, a cordial welcome. We feel encouraged by the presence of such a representative and large gathering here today. Shri Jawaharlalji, we are extremely grateful to you for having agreed to grace this occasion by your distinguished presence. May I say that we value very much this gesture of goodwill on your part towards us and feel considerably encouraged by your being in our midst today.

On an occasion like this our minds naturally go back to the Pioneers who, in the early years of this century, made continuous and concerted efforts for placing this organisation on a firm foundation. For our Founder Members it was an effort which called for great tenacity of purpose and sustained enthusiasm. Apart from a feeling of apathy consequent upon the political subordination of the country, recognition from those then in authority was slow in coming. The Chamber was fortunate in having galaxy of leaders who, in the earlier years, nurtured it with a sense of devotion and purpose. Perhaps, it would be invidious to mention names. But the late Sir Mumohandas Ramji, our Founder President, and Sir Purshotamdas Thakurdas, the Founder Vice-President, who is happily with us today, stand out prominently among those who were chiefly responsible for laying the foundation of this institution on a solid basis. We must also gratefully recall the life-long contribution of the Founder Secretary, the late Shri J. K. Mehta, who, during a continuous period of service of over 40 years, developed its organisational framework and established a high tradition of service. His inspiring lead of a selfless service has been followed by his worthy successor, Shri Ramalingam, our present Secretary, whose valuable contribution for over 30 years is difficult to under-estimate in recounting the record of the Indian Merchants' Chamber's contribution to commercial community.

The Indian Merchants' Chamber was organised and established in the year 1907. The period was one of political ferment and the Chamber was the off-shoot of resurgent nationalism. The Partition of Bengal had caused great discontent and the immediate outcome was the fervour for Swadeshi. It was under the leavening influence of these developments in the political sphere that leaders of commerce and industry of those days decided that organised and sustained efforts were necessary for creating conditions favourable for the commercial and industrial regeneration of the country. They strove hard for the awakening and development of the economic consciousness of the people, for the evolution of a healthy link between business

and politics and, above all, for kindling the spirit of self-respect in the Indian commercial community.

In the context of the controversies of the day it may well be asked what purpose does a Chamber of Commerce like ours serve and what is the justification for our existence except in furtherance of our sectional interest and our ultimate survival as the mouthpiece of the commercial community. I am deliberately posing this question against the background of certain altruistic and ideological concepts prevailing today and the cloud of suspicion that hangs over the commercial community. If I were to attempt to vindicate our existence in terms of mere professions, I may well be accused of indulging in platitudes to hypnotise this august gathering with words which have a momentary spell but not lasting conviction. Consequently, deeds rather than empty words would prove our case, as also the case of kindred commercial organisations who are eager to have their voice heard, through the numerous utterances of their spokesmen and their equally numerous resolutions and representations.

Thus, if actions of the commercial community and not mere declaration of their intentions were to be a true criteria for the justification and continuance of the commercial classes and entrepreneurs, then I cannot do better than look back 50 years and review very briefly the contribution of this organisation, whose Golden Jubilee we are celebrating today.

In narrating very briefly the record of work and many-sided activities of the Chamber, I would like to mention the following. The Chamber fought for the fiscal autonomy of the country; it pressed for the development of the Indian Mercantile Marine; it urged the need for changes in the exchange and currency policy of the country to ensure national interest; it pleaded for the Indianisation of services and particularly of the Army; it advocated the adoption of a consistent policy of Swadeshim in supplies and services; it stressed the importance of steps for the rapid industrialisation of the country; it championed the cause of Indians overseas; it asked for a reorientation in policies governing both the internal and overseas trade; it recommended steps for providing facilities for technical and commercial education; it indicated the importance of developing indigenous banking on modern lines; it emphasized the place of co-ordinated system of transport in an attempt to improve the nation's economy, and above all, it pleaded for a continuous and sustained

programme of welfare activities for stimulating and assisting the moral and material progress of the people of the country.

It is not my purpose today to attempt an assessment in detail of the results of these efforts and activities with reference to each problem raised or tackled. I will only emphasize that the more fundamental and abiding contribution of the Chamber was to supplement in the economic sphere what the Indian National Congress contributed in the political sphere. The Chamber was able to arouse the economic consciousness of the people, through the medium of the Commercial Conferences and the Indian Industrial and Commercial Congress, and assisted in focussing attention on the economic ills and handicaps inherent in a state of political subjugation. The wider import and significance of the work and contribution of the Chamber was appropriately described by the late Sardar Vallabhbhai Patel on the occasion of the Opening of the Building of the Chamber in the following words:

"With the birth of the Congress an atmosphere of intense patriotism was created and the Chamber was formed in that atmosphere. Since then the inter-relation between the Congress and the Chamber has been cordial and intimate. If the founders of the Congress were patriotic, the founders of the Chamber were not only enlightened, but also very bold and imaginative. . . . As the Congress has played a useful part in creating an atmosphere of patriotism, the Chamber has also rendered immense service to the commerce and industry of the country."

In the freedom struggle the Chamber and those who guided it, stood by those who were in the vanguard of the fight. Situations arose in the history of the Chamber when there were serious threats to its very existence because of its support to and sympathy with the National Movement. In the year 1932, when political passions were high, the then Government served notices individually on all the Members of the Executive Committee of the Chamber warning them against extending any direct or indirect support to the political movement. The air was thick with rumours about the imminent arrest of the Office-Bearers of the Chamber. It would appear that orders were kept ready to declare the Chamber as an unlawful Association. But undaunted, the Chamber continued its activities in support of the national struggle demonstrating abundantly its faith and belief in the national leaders. In 1930 the Chamber withdrew its representatives from the Legislature, both in the Centre and in the Province, as a protest against the repressive policy then

pursued. The Government called for a re-election. The spirit animating the Chamber was amply demonstrated when it is recalled that no Member came forward to stand for election, although attempts were made by Government quarters to tamper with the loyalty and allegiance of the Members of the Chamber in an endeavour to fill the gap. Such patriotic attitude on the part of the Chamber did not go unnoticed. We proudly recall, on this occasion, the acceptance by Mahatma Gandhi of the Honorary Membership of the Chamber. It was an indication of the public esteem which the Chamber had earned by its enlightened national policy in the struggle for the political emancipation of the country.

The Chamber is inspired by the common objectives of securing the economic and social progress of our country. In reaffirming this identity of interest in the larger objective of national policy, I am not claiming the same identity of outlook in regard to the mode and manner and the stages by which the objective should be achieved. The approach in regard to the means and the emphasis may also indicate, on occasion, some measure of divergence.

At the same time, the commercial community is quite conscious of the ideology and aspirations animating the leaders in the political sphere in the stupendous task of building up the New India. We realise that political freedom will not alone enthuse the masses unless it ushers in an era of better living standards backed by social justice. We are equally conscious of the need for hastening the economic progress of the country through a planned programme of economic development. In this great task of national development we are aware of the positive role we have to play and need we assure you of our whole-hearted and best efforts in that direction?

The Chamber has not confined itself to the primary function of being the co-ordinating agency of commerce and industry. On occasions of national calamities like floods or famine, the Chamber was in the forefront in organising relief and raising funds for the purpose. Further, it played an important part in the negotiations for securing the welfare of Harijans at the time of Gandhiji's Historic Fast for the improvement of the status of Harijans. All the meetings in connection with those negotiations were held in the Chamber.

The Chamber endeavoured to stimulate efforts for increased opportunities for technical and commercial education. It has been conducting Commercial Examinations. On the occasion of

the Golden Jubilee, the Chamber proposes to inaugurate a scheme for providing facilities for practical training in Business Methods and Organisation. Under that scheme, the Chamber proposes to take up every year a few Commerce Graduates and persons holding specialised Degrees or Diplomas for undergoing a period of Apprenticeship, so that they will have an opportunity of acquiring a wider background of general knowledge. Sir Ratan Tata Trust has been good enough to sanction a grant of one lakh of rupees to form the nucleus for the Endowment for that purpose. We expect to be able to raise five lakhs of rupees for the same. We also wish to set up a Research Department for an objective study and examination of current economic problems. These efforts would be in keeping with the Chamber's tradition of service in wider spheres.

It would be futile on our part to bask in the reflected glory of our past achievements. We should shed the innate tendency to keep ourselves aloof from activities which do not directly concern our business. We have to play our part in a dynamic and active manner in the wider sphere. Functional representation in Parliament having been abolished, some of us will have to come forward, stand for election in order to interpret our outlook and objectives in the Legislatures both in the Centre and in the States. In order to justify our existence as a dynamic and useful section of Society, we shall have to adhere to a code of conduct and standards of business morality which would give us immunity from the propaganda against us and making us a target of class hatred because of our legitimate belief in profit motive. A proper assessment of our position in the organisation of Society and readiness to adjust ourselves to the needs and requirements of a changing pattern of society are needed to claim for ourselves a lasting place as a contributory factor in the development of the national economy, enjoying the respect and the goodwill of all sections of the community.

The Indian Merchants' Chamber, which has the proud privilege of representing 120 Associations interested in a variety of trade and industrial activities, large and small, comprises heterogeneous types of enterprises of diverse sizes, and it would, therefore, not be correct to say that the Chamber represents specific vested interests. May I, therefore, respectfully suggest that closer association and contact by Government with organisations of our kind will go a great way in eliminating many misunderstandings?

One of the potent causes of misunderstanding is sensitiveness on the part of some in authority to well-meant utterances of our

spokesmen who venture to offer criticism and suggestions in the plans for development of our national economy. We do believe that we are equally interested in the future of our country and its well-being, and, therefore, we have a right to express ourselves on schemes and plans affecting the future of our country and, therefore, our attempts to put forward our point of view should not be misunderstood.

The greatest need of the hour is the emotional integration of the country so that one and all could pull their weight in the stupendous task of building up the New India of our cherished dreams. Unfortunately, certain fissures are developing. Controversies in regard to language, regional adjustments, class distinctions, differences in outlook in regard to the ideology governing the pattern of society, should not be allowed to influence, much less dominate, the attitude of any group of section towards this common endeavour of accelerating the economic progress of the country.

Shri Jawaharlalji, we have great faith in your leadership. There is abundant evidence of your spirited intervention in checking all disruptive tendencies, in forms of parochial approach, class hatred and linguistic wars. Your task of moulding the future destiny of this country is as difficult as that of Mahatmaji's mission of winning the National Freedom. Fair assessment of our point of view could not be in more competent hands than our respected Prime Minister.

Shri Jawaharlalji, I again thank you very sincerely for your presence here this morning. I would now request you to inaugurate our Golden Jubilee Celebrations and in doing so, give us a Message which, I am sure, will be one of cheer and hope.

*Speech of Prime Minister Jawaharlal Nehru at the time of the Inauguration of the Golden Jubilee Celebrations of the Indian Merchants' Chamber on 3rd February 1958.*

#### MR. PRESIDENT & FRIENDS:

During the past 30 years or so, or more than that, I have watched from a distance some of the activities of this Chamber. I confess that what I watched then was more the political aspect of those activities than the economic. But gradually the economic aspect also came up before us in the last days of the struggle for freedom. But, for the moment, I shall only refer to what Mr. Tata mentioned in his remarks, that is, the help and co-operation that was received at various times of our

struggle from this Chamber. That stands quite apart, whether we agree or not in regard to economic matters; we did agree on several aspects, but we also did not agree sometimes. But in those days before Independence, for a generation or two the primary object before every citizen of India was the attainment of Independence and we realised that political Independence was a pre-requisite for anything else. Therefore, it had to be given such a place in every man's thinking in India and I am glad at that stage this Chamber realised that fact and threw its weight, in so far as the Chamber could do it, on the side of the freedom struggle, and I should like on this occasion to refer to all that and to acknowledge our appreciation of it.

Now, in the course of Mr. Tata's address, towards the end of it, he said something, rather hesitatingly that criticism may sometimes be misunderstood by those in authority. I would invite you and every section of our people to offer constructive criticism, as citizens, of our activities, plans, etc. I say constructive criticism, not that I rule out even criticism which is not constructive but that does not help. It will only irritate the parties concerned. You are free to offer constructive or destructive criticism but the point is this, it is not a question of not having criticism but it is patent that the approach to any kind of plan or any kind of movement depends a great deal on the objectives and certain premises. If those objectives or those premises differ, then naturally the differences show at every subsequent stage of the consideration of that problem. We, not only as a democratic society but even otherwise, have chosen a path which, apart from its objective, to which I shall refer later, is a path which requires and demands the fullest consideration of every aspect of the problem which is not conditioned by any dogma or any pre-determined decision about any matter; part of that may have to be considered as a whole because it is intimately connected with our objective; part of it would depend on so many circumstances that it has to be considered, re-considered and if necessary revised. Therefore, I want to be quite clear that it is not only open to you but desirable for you to offer such constructive criticism. You say that sometimes you are misunderstood. May be. May I also suggest to you not to misunderstand the replies to that criticism that we offer because sometimes it is likely to be a very vigorous reply?

Now, may I branch off for an instant and say something which is totally irrelevant, and that is, irrelevant in the sense of this particular occasion; but it is very relevant in so far as it refers to Bombay, this great City? It surprises and amazes me

that a great city like Bombay which has so much to add to its distinction both in its life and its general beauty should be one of the very few cities in the world which has neither a good hall nor a good park. It is astonishing, it shows a certain lack of civic consciousness because these are the essential amenities of every city, big or small. In fact, nowadays, the idea of a city starts with the park, and the city comes afterwards. It really is a very important consideration for any person connected with the city. I do not know where to make a park now. Where is the room for it? But it is clearly an important consideration for any person connected with the city to realise that it is a city without a park, that it is essential to it, more especially for the younger people and children and a city without a proper park or a hall is also odd, very odd. Nowadays when almost every activity involves meetings, discussions, you want halls for the purpose. Of course so far as political activities are concerned, and more especially Congress activities, many years ago they became so big that no hall could contain them. So we moved to the open stage but still that is no way to replace a hall.

Then, there is nothing new in it that I am saying, and that is slums. I merely repeat the word here to remind you of it because it is a constant slur on every city and I know that something is being done. I do not say that nothing has been done. I know the people realise the problem. I will only say this, in this connection, that whether it is slums or anything else, we have arrived at a stage when spasmodic work does not do much good and it sometimes comes in the way of organized effort later. The whole problem should be approached from the point of view of not only present-day demands and difficulties but perspectives of the future. What do you want Bombay to be 25 years later? Having more or less made up your mind and having a master plan of Bombay a quarter century later, work up to it—not an odd job here and an odd job there. It will have to be an organized approach to the problem, that is how great cities are functioning anywhere in the world. Take the case of Delhi where an effort is being made to make a master plan of Delhi 20 or 25 years later and we try to work up to that end. Now the irrelevant part is over.

I am not a preacher speaking from a pulpit. Nevertheless, I should like to take as a text for my address today a Biblical text. Of course you know it:

“For unto everyone that hath shall be given  
 And he shall have abundance  
 But from him that hath not shall be taken away  
 Even that which he hath.”

Now, I am not quoting this from the point of view of individuals or anything but rather to draw your attention to certain basic trends in society as they exist today. Let us first take the international aspect. Internationally considered you might say today there are some nations in the world which are prosperous, very prosperous and that they will solve the problems of production and generally the problems of the Welfare State. Now, among such nations, mention may be made of the U.S.A., Canada, some of the nations of Western Europe and some other countries like Australia and New Zealand. In Asia, I do not at the moment refer to the Soviet Union but that certainly will be included in that category, and to some extent, Japan also, may be included, though not quite at the same level. You cannot draw hard and fast lines. Then there are a number of countries which may be called middle countries and a vast number of countries which are now termed as under-developed countries where the standards are terribly low. Now, if you look even for the past 10 or 12 years since the war, while there has emerged a new consciousness about approaching these problems of under-developed countries, helping them, encouraging them, nevertheless you will find that, in fact, the gap between the developed and the under-developed countries has become bigger and bigger. Those that have, have been given more and those who did not have, have fallen back or even if they have increased very slightly, the gap is bigger. That is, the developed country has developed the capacity for great growth, greater progress, while the under-developed country struggles hard and makes good in a little way but nevertheless the pace is small.

Now, viewed from the national angle, you will find the same trends. Look at a country regionally; the more developed region of the country tends to grow faster. The less developed, they don't grow at all, or they grow at snail's pace and even that with a great deal of State effort. Of course, various factors go to explain this—certain economic factors of course, certain social factors, social customs and all that. You have to look at it in this way. A person is poor or a country is poor because the poor cannot work hard, cannot work efficiently and therefore the capacity to work becomes less and less. Instead of making progress, poverty itself pulls him back or pulls that country back while the person or the country that is well, its capacity for work increases; good health, good surroundings, good education, produce more and more; so that we have a curious situation that so far as normal forces are at work—economic or others—they tend constantly to widen the gap between the well-to-do and

those that are not well-to-do. Of course the State comes into the picture sometimes, and more and more in the modern age; but so far as normal economic forces are concerned they widen the gap all the time. The so-called blind forces of the market are always widening the gap, whether viewed internationally, nationally or regionally. This aspect has to be remembered because it deeply concerns us who are struggling to get out of the morass of poverty. And to get into, what is called by somebody,—to reach that stage of "take-off" into "sustained growth", that is, cross that barrier, which is a very solid barrier, and reach a stage where growth becomes relatively spontaneous in the country, that is the problem. The poor country, the under-developed country, is on this side of the barrier. On this side, they are constantly struggling for bare existence, apart from making progress.

We have taken the country as a whole, not individual groups here and there. Now that will apply to regions and countries alike; there are certain cumulative processes at work which, at both ends, in a Welfare State, in a developed State, tend to encourage its growth further and further and in an under-developed State there are certain cumulative forces at work which pull it back at both ends all the time. The poor becomes poorer and poorer. Now that is, again to repeat the phrase used, poverty becomes its own cause. It repeats itself.

As you know, the development of the modern nations of the Western World, Western Europe, Americas, North America, took place chiefly in the 19th century, part of the 18th century, but really in the 19th in the main and of course in the 20th century. It took place at a time when democracy, as we know it today, did not exist. People talked about democracy but it did not exist and the parliaments and assemblies were narrowly representative of the people of certain groups at the top. Why I refer to it is because pressures from the people below can no longer be ignored now. Those were the top-class which controlled the parliament, the limited democracy of the day and accumulations were made in those days at a very great cost of the common people who worked. The change-over in England to industry meant a terrible cost for that generation. True, for that cost, accumulations were made, savings were made, special investments took place, fresh growth took place, but all at heavy cost. If any of you have not read of the account of that in the book, the name of which rather frightens you, that is worth reading Marx's "Das Kapital" where he describes conditions in Britain, how the accumulations were made for the

growth of industry. Of course other factors came in too. Colonial exploitation came in the 19th century and all that helped.

We live today in an age when democracy of the full-blooded kind functions not only in the Western countries but in many Eastern countries, when people are politically conscious and make demands, and are not going to bear the cost of progress by their own starvation. You cannot physically repeat the processes which the countries of the West, England let us say, went through in the beginning of the 19th century. That is one aspect of the problem. In fact as a very eminent observer said: If democracy as England has today had existed in the beginning of the 19th century, well, the growth of British industries, etc. would not have taken place or would have taken place at a very slow pace. You cannot now go back and repeat the processes that happened then. We have to deal with things as they are today. In India certainly we have full-blooded democracy; we have all the unhappy brood of poverty and what I want to say is that it will be frightful to add to the burden of the vast mass of humanity in India in order to get savings; in order to progress which might have been done in a State where democracy did not function in the same way. There is one obvious difficulty, that is political growth, political consciousness, political revolution without an economic growth, as compared to an economic revolution preceding political growth, which happened in Europe and elsewhere.

So we come back to this, this basic problem of cumulative forces dragging down the under-developed countries and cumulative forces encouraging the developed countries to become richer and richer and more prosperous. How are we to get over it? How are we to reduce that? Of course that process acts in a State also. You will ask me: Well, why is it, let us say in England, the difference, the gap between the rich and the poor is much less? That of course is the position today. Basically you will see that the gap becomes less, constantly by State intervention. If you leave it to the blind forces of the market, it does not grow less. It grows bigger and bigger. Two things come in the way. In England it is—and I am using England as an example, and it applies to other countries too—the State intervention and greater political democracy come in the way of the blind forces of the market and prevent them from functioning. If it did not come in the way, then the gap becomes bigger between the rich and poor. Political democracy comes in the way and insists on certain things being done and thereby

really interferes with the normal functioning under the present system. I say this because our people sometimes argue oddly about the so-called governmental interference and the role of private enterprise. Private enterprise is a good thing, to give initiative it is a good thing. But private enterprise as it was known in the 19th century is dead as the Dodo or ought to be. Let us be clear about it. It does not exist anywhere in the world, even in the highly capitalist State like the U.S.A. Even the capitalist system of U.S.A. today is completely different from what it was a generation ago. Although it changes it keeps apparently the same structure. The U.S.A. became so rich and prosperous that it can even carry on with all forms without much difficulty, but in other countries which are under-developed, you cannot keep the old form functioning in the same way because that comes completely in the way of growth as it would in any other country too.

I want you to understand this, if I may use the word, the philosophy underlying this. It is absurd for people to go about in their enthusiasm praising the capitalist and the capitalism in that light. It has no meaning to me. Capitalists, some of them are very good, some of them are very bad. Many of them are in the middle. So also it applies to any class, good or bad. It is not a question of individual merit or demerit but the type of approach and the type of system that fits in well with the spirit of the age, or if I may use a better word, in our own language, the Yuga Dharma, because the Yuga Dharma changes from age to age and whether you read it in the Gita or anywhere else, it is not the same for every age; otherwise it is out of place, out of touch with it. We have to face this particular problem of breaking through those tendencies which make a poor country poorer, and all the wealth the City of Bombay or the City of Calcutta may show is not an index of India's wealth or prosperity.

That index after all is that of the poor peasant in the village, his standard of living and *per capita* income. That is the real standard. And my first point is that if it is left to normal forces under the capitalist system, there is no doubt at all that the poor will get poorer and a handful of the rich, richer. It is true that the State intervenes—from the riches of the rich it will provide amenities for the poor, education, health, housing and such like things. This is true, as is done in some countries, and this process and interference of the State will no doubt soften the condition or the difficulties of the poor, but it does not touch the basic difficulty of the system which encourages the

gap becoming bigger and bigger. I am not putting forward to you any positive or constructive proposal, but the basic point is—we call it the inevitable point, but it is a positive point that the whole approach of the free march of the blind forces of the market operating private enterprise having free trade as it is said, so that they may accumulate capital and invest, all that have very little relevance today. I do believe in incentives because human beings being what they are, require incentives. It is one thing to have incentives, it is quite another thing to let yourself to be forced or impelled by the action of the blind forces, of economic forces, supposed to be the forces of the market.

Having accepted that proposition, then the next becomes a constructive one of what we shall do? That is exactly what is the object of planning. To generate those new forces, so as to get out of this type of economic working which increases the gap, is an international problem. That some countries should grow richer and richer and others become poorer and poorer, is really an international problem. It is the real problem which looked at from the point of any equity or of practical convenience, or of consequences of conflict, all these things will upset the peace of the world. It is a bad thing for these differences to exist. The richer countries when they realise this, they try to help many countries and the U.S.A. have given very generous help, they have given tremendous help. But the point is that while all that help is good, it does not help to change the trend of forces at work which are in the contrary direction and if this continues—these big gaps between the rich country and the poor—they lead to political upsets, they lead to conflicts, they may lead to war. It is in the strictly narrow opportunistic sense that rich countries should see to it that this cycle of poverty ceases to exist in the under-developed countries. So much from the international point of view.

Now let us come to the national point of view. If I may, I might add something to the international that the old idea that a country developing an under-developed country injures its market or its industries is completely out of date. Everyone realises that a developed country has always a greater chance and greater market to offer to other countries than an under-developed country.

Coming to the national domain, we have regions, developed regions and undeveloped, and again it is the same tendency—the developed regions to develop more and more, the poorer

regions not having the strength to go ahead at all. The State now comes into the picture somewhat, not enough, to help the undeveloped region. But what is the help? Very little. Obviously there are some things which one cannot provide. I am talking about regions which depend upon some facility, let us say there is the steel plant which can only be put up where iron ore or coal or both are available. You are bound down by certain factors like these, you should have electric power, you should have hydro-electric power or thermo-electric power. You may be in a better position a few years later to provide power when we make atomic energy to play about, but still the fact is that in a big country like India the difference between the developed parts and the relatively undeveloped parts is very great and it should be the function of the State to try to lessen that difference very deliberately. I am not myself sure that we have tried hard enough to do so because in trying to do so we may have to relax on some other fronts. It is very difficult. We may have to relax on the front of production which we do not want to do. These difficulties come up. The objective must be to reduce the gap between the developed and the undeveloped areas.

Now there are other factors in Indian life, the social customs such as caste, position of women, which have kept down parts through ages past, arresting all social mobility and accentuating economic differences which prevented the growth of the nation. Fortunately we have changed many of them but it shows how if the society were to leave all this to itself, then the backward areas would become more backward, backward individuals would go to the wall, ultimately affecting the whole nation. And therefore the State intervenes and in its intervention it tries and it plans. Planning is essentially a process whereby we stop those cumulative forces at work which make the poor poorer and start a new series of cumulative forces which make them get over that difficulty and start them at both ends. The cumulative forces will make rich societies richer but you have to get over that barrier of poverty. In a country like Russia this thing has been done but at what cost of human suffering? The achievement was tremendous, but the sacrifice made was equally tremendous.

Now the problem we have to face is, how to do it, how to cross the barrier of poverty without paying the terrible cost and without infringing individual freedom? That is our problem. It is no good any person coming and telling me that individual freedom is sacred, let us therefore be poor. Nobody

is going to accept that answer. I do think individual freedom is sacred but not at the cost of poverty and misery. It is a difficult problem and difficult as it is, it will have to be solved; there is no doubt that it is being solved. I venture to put these aspects before you so that you may look at these things in the right perspective. You are men with ability and resources with an aptitude for development. Because you concentrate on commercial and industrial activities and know a great deal about what you are doing, your future is important in regard to a particular segment of national life, but that segment cannot throw much light by itself on the numerous other segments. And all of us therefore have to come out of traditional grooves—occupational and social—and look at the broader picture and then see how that fits in, in our thinking or the way of our thinking.

India at the present moment is obviously an undeveloped country considering its vast potential. At the same time it is probably more developed than most of the undeveloped countries. And what is much more important, its economy is becoming dynamic. There is a certain dynamism in our people today and in our economy. The basic factor is that our economy is gaining an element of dynamism which is a prelude to the next stage of self-growth. When we are strong enough to grow, as our economy develops and assisted by other forces we are bound to become more and more self-reliant. Therefore, any country which constantly thinks of being helped by other countries develops a frame of mind which is not good. Help from other countries is very useful, it is very helpful and it is nothing unusual. All the great countries of the world were helped. The United States of America for a hundred years was a place of investment of British capital, and even Germany developed with the capital from other countries. There is no harm about it, there is nothing disparaging about it. We are very grateful for the help we have received or we are going to receive from the U.S.A. in our present condition. We expect some help from Germany too, we have received help from the Soviet Union; we are all very grateful—but the point I wish to make is that if we develop that mentality of relying on outside help, it is a very dangerous and a weakening force and it saps that very dynamic force, the basic thing we have to develop in this country, which I believe has to be fostered and developed in this country. We have to remember that whatever help we may get, from outside, it is only a very very small part of what we have to do. In the final analysis we have to

realise that it is not a question of money. Money in the modern world represents resources and is important, of course. It would be absurd to ignore that aspect. Nevertheless it is not all that important. Human beings are more important, more important than money. It is human beings that produce money; it is they who produce the thinking, the technology, the science and everything. Money after all is the means to an end, and this simple aspect is lost sight of by people going to such horrid places like the Stock Exchange and other places. Where I said horrid I am not referring to their work, but to the exceedingly horrid noises that come out of the Stock Exchange! So one is apt to think that somehow there is some manoeuvre, with money here and there, to get-rich-quick methods and all that. Well that cannot happen and you have to consider these things in a broad way; individuals making money at the cost of others has nothing to do with national economy and the basic thing is not money, but as you know production, goods which are produced which are represented by money.

We come to production. Of course, the question is production of what? If we are aiming at a great deal of production we have again to plan and not produce any odd thing that may find a market. That is an individual approach. If we have a market, we produce for it for the sake of profit. Our urge is to produce the articles of primary importance, which a nation needs. Our resources are limited. When we apply them to the secondary articles, primary things suffer. Therefore, in planning we think of the primary articles and when those demands are satisfied we go to the secondary things.

In thinking of production, in the modern age we think of machines. Obviously, we want to industrialise this country. We have to produce machines, not only small machines, but big machines, the steel plant and the rest. We want power, we want iron and steel. These are the basic things for industrialisation. Without knowing any other thing about a country, you can say with confidence where that country stands when you know what its steel production is, what its power consumption or supply is. We are concentrating at great cost on iron and steel; see the three major plants and the fourth one being doubled, so we have four major plants. An eminent German engineer was telling me at Rourkela that he has not known of any country which has had the courage to start four plants like this simultaneously. Well we have done that. And when people say that you have been over-ambitious in regard to the Second Five-Year Plan, it is true that we cannot plan in

the air. We have to keep our feet down on the ground. We cannot get away from reality; but reality itself is a variable factor, especially when you deal with hundreds and millions of people. It is not the reality of a small group, but of large numbers of human beings, what they can do. Everything therefore depends on their vitality, energy and the amount of enthusiasm they can put into it.

You know we have had to face great difficulties because especially of the food situation last year. We had in succession very bad harvests, floods, droughts and several other things which have upset our calculations and have compelled us to spend large sums of money on importing foodgrains; for this we have spent money, also we have spent much more money than we intended on defence. Then the prices go up everywhere, the Suez Canal trouble comes and all other things which follow in its wake. Naturally, we have to adapt ourselves to the changing conditions. But I might tell you that I do not think that even so we are over-ambitious. If this is being over-ambitious, we propose to be over-ambitious every time. It is that mentality that we wish to produce in this country, not the mentality of caution, not the mentality of going slowly because the stakes are too high. Look at the picture, whether the international one or the national one. If we go slow, we go under completely. So in this context I should like you to consider these problems.

Now the budget that came last year brought a number of new taxes, brought a new approach. I am not going to discuss that in detail, but I do want to tell you that the new approach to the problems was a breath of fresh air which I appreciated completely. Keeping this whole context in view, we have to realise that it is not possible to carry on in the old way, in the old grooves, in regard to taxation or other matters if we are to face the challenge that is before us and the difficulties that we have to face. It may be that a slight additional burden falls on you, or me or somebody. Well, what about it? What do you wish to be done? Do you want that those who are weighed down with the big burden they carry should be taxed more and more and you less and less? Do you think that in a democracy based on adult franchise like India that would go down the throats of the Indian people? Is it justified? It cannot be done. Therefore the trend of the last budget was, I think, completely right and I should, here and now, like to express my high appreciation in that respect of our Finance Minister and the action that he took in the budget.

Finally I should like to remind you of the fact of which you are doubtless aware, that is the emergence of outer space into human affairs. The so-called space satellites, the Sputniks and the Explorer. This may not affect you or me or our problems in the immediate present or the near future. But the fact is that this is something of tremendous importance to human affairs. That is human beings, somebody from the earth shooting out into the outer space. I have no doubt that from this will follow many other things in the course of a generation, may be two generations, I cannot say, which are vital, which will make a vital difference to human life. Of course, the immediate thing that we are concerned with is not so much Sputniks or the Explorer, but the Hydrogen Bomb and the threat it offers to the world, because it is a terrible threat, the way things are functioning today. It is something that is appalling, how these things can happen. This is no place to discuss this question, but I do want you to realise that unless the world puts itself together—because of this matter of the Hydrogen Bomb or disarmament—the world will surely go down to utter destruction. To save the world we should not allow this matter to drift. There is no such thing as remaining where you are; either you go up or go down. But with the era of Sputniks, Explorer and space travel and the coming of the atomic energy, the tremendous forces come in. These are going to change the fashion of our life. That itself indicates that we have to keep pace with our thinking, with our social organisation; otherwise we will be left high and dry and something will happen. I fear our economic problems and other problems will be rather out of date. We go by an aeroplane to Delhi or somewhere else, but our minds have not yet come to the aeroplane age, much less to the Sputnik age. And many of the problems that we discuss—important as they are—are really problems of yesterday and new problems are arising today. So I should like to end my talk with you with this thought that we are on the threshold of the atomic age and Sputnik age and we have to keep very wide awake, very much alive and be on our toes to keep pace, whether it is in the political, economical or social sphere. Thank you.

## INDEX

## A

	Report Page	Appendix Page
<b>Accommodation Control</b> .. .. ..	125	469
<b>Agricultural Commodities Exported</b> —Issue of Certi- ficates in respect of .. .. ..	121	
<b>Airmail Articles</b> —Delay in the Delivery of .. .. ..	115	440
<b>Airmail Traffic between Bombay and Centres in Saurashtra</b> —Delay in conveyance of .. .. ..	22	
<b>Air Service (Internal)</b> —Liability of—in respect of Injury or Damage caused to passengers or goods ..	6	149
<b>Ammonium Sulphate to Sugarcane Plantations</b> —Supply of .. .. ..	129	
<b>Arbitration in Supply Contracts</b> —Provision for ..	132	471

## B

<b>Bank Strike in Calcutta</b> .. .. ..	84	
<b>Bombay Port Trust</b> —Conditions governing the Tenders issued by .. .. ..	138	486
<b>Bombay Port Trust</b> —Imposition of Time-limit for filing of Applications for Remission of Demurrage charges paid to .. .. ..	8	153
<b>Bonded Warehouse for Air-freight Packages and Parcels</b> .. .. ..	7	151
<b>Bonus</b> —Formulation of Guiding Principles for determin- ing the question of—Payment of .. .. ..	73	
<b>Budget Proposals of the Government of India for the year 1957-58</b> .. .. ..	26	161

## C

<b>Capital Goods</b> —Policy governing Import of .. ..	94	430
<b>Coal Supplies</b> —Inadequate—to Manufacturing Under- takings .. .. ..	128	
<b>Coal Supplies for Industrial Units</b> —Provision of ..	12	
<b>Code of Conduct for Insurers</b> .. .. ..	117	451
<b>Coffee Powder</b> —Manufacture of .. .. ..	96	
<b>Companies Act, 1956</b> .. .. ..	76	302
<b>Companies Act</b> —Filing of particulars of Directors, etc., under Section 303 of .. .. ..	78	326
<b>Companies</b> —Financial Year of .. .. ..	77	324
<b>Companies</b> —Revised Scale of Fees payable by .. ..	78	328
<b>Cost Consultant Practice in India</b> .. .. ..	120	464
<b>Cultured Pearls</b> —Statistical Information about the Ex- port of .. .. ..	120	
<b>Customs Reorganisation Committee</b> —Questionnaire is- sued by .. .. ..	93	382

Report Page	Appendix Page
----------------	------------------

**Customs—Matters regarding :**

Custom House Agents' Licensing Rules, 1957 ..	113	
Bonds and Guarantees—Attestation of Signatures ..	113	
Examination of Cotton Textile Bales at the Docks ..	114	
Cotton cloth used in the manufacture of Embroidered Articles exported from India ..	114	
Delay in the Delivery of Airmail Articles ..	115	440

**D**

Docks—Storing and Stacking of goods in .. ..	10	
<b>Drawback of Duty on Imported Raw Materials used in the manufacture of Goods Exported .. ..</b>	<b>110</b>	<b>438</b>

**E**

<b>Employees' Provident Funds Act, 1952—Increase in rate of Contribution from 6½ to 8-1/3 per cent ..</b>	<b>82</b>	332
<b>Employees' Provident Fund Act, 1952—Amendment to—Proposals therefor .. .. ..</b>	<b>81</b>	330
<b>Employees' State Insurance Act, 1948—Section 66 ..</b>	<b>83</b>	333
<b>Employees' State Insurance Act—Weekly Contribution by Employers and Employees under .. ..</b>	<b>82</b>	
<b>Excise Duty of Rectified Spirit used for Research Purposes—Exemption from .. .. ..</b>	<b>130</b>	469

**Export—Matters regarding :**

Export Promotion Scheme—Issue of Import Licences for Real Pearls under .. .. ..	109	
Export of Red Chillies .. .. ..	109	
Drawback of Duty on Imported Raw Materials used in the manufacture of Goods Exported ..	110	438
Export of Manganese Ore .. .. ..	111	
Export Duty on Low Grade Manganese Ore ..	112	
Export Duty on Cotton Waste .. .. ..	112	

**F**

<b>Factories—Shifting of—from the City Limits ..</b>	<b>123</b>	465
<b>Films—Coloured—Processing of .. .. ..</b>	<b>99</b>	
<b>Finance Commission—Enquiry by .. .. ..</b>	<b>40</b>	227
<b>Foodgrains Enquiry Committee—Questionnaire issued by</b>	<b>116</b>	444
<b>Freight Rate on Jute Goods from Calcutta to Bombay ..</b>	<b>4</b>	
<b>Freight Surcharge due to closure of Suez Canal &amp; Liability therefor .. .. ..</b>	<b>1</b>	145
<b>Freights—Surcharge on .. .. ..</b>	<b>4</b>	

**G**

<b>Government Bills—Procedure regarding Introduction of, and eliciting Public Opinion on .. .. ..</b>	<b>42</b>	242
---	-----------	-----

**H**

<b>Haji Bunder—Installation of a Weighbridge .. ..</b>	<b>11</b>	
<b>Hessian and Gunnies from Calcutta to Bombay—Difficulties in procuring Freight Space for Shipment ..</b>	<b>5</b>	

I	Report Page	Appendix Page
<b>Import—Matters regarding :</b>		
Policy governing Import of Capital Goods ..	94	430
Import Duty on Machinery and Equipment ..	98	435
Processing of Coloured Films .. ..	99	
Procedure relating to Transfer of Quotas ..	99	436
Concession of Claiming Licences for Soft Currency on the basis of Imports from Dollar Area ..	100	
Import of Basic Raw Materials for Indigenous Indus- tries .. .. .. ..	101	
Actual Users' Import Licences—Issue of Essentiality Certificates for Raw Materials .. ..	102	
Red Book for the Licensing Period July/December 1956—Appendix No. XXIV .. ..	102	
Distribution of Imported Raw Silk .. ..	103	437
Licensing Policy in respect of Laboratory Chemicals	104	
Import of Wines, Spirits and Beer .. ..	104	
Import Policy in respect of Sulphur .. ..	105	
Import Licences for Import of Provisions from Jammu and Kashmir .. ..	105	
Import of Medicines and Medicinal Preparations ..	106	
Grant of Import Licences for Motor Vehicle Parts ..	106	
Basic Period for Sodium Perborate .. ..	107	
Import Policy in respect of Oxalic Acid .. ..	107	
Import Policy in respect of Studio Lamps .. ..	108	
Import Licensing Policy in respect of White Cement	108	
<b>Income-tax Matters :</b>		
Income-tax Allowances (Current Profits Deposit) Rules, 1957 .. .. ..	43	245
Disposal of Appeals by Appellate Commissioners during the pendency of similar issues before the High Courts .. .. ..	52	274
Payment of Taxes on Disputed Amounts .. ..	53	
Levy of Additional Super-Tax on Bonus Shares and Super-Tax Dividends—difficulties arising out of	53	
Income-tax on Amounts received by Employees by way of Gratuity .. .. ..	54	276
Indian Income-tax Act—Section 10(2)(vi)—Allow- ance of Initial Depreciation .. .. ..	55	277
Indian Income-tax Act—Section 16(2)—Grossing up of Dividends .. .. ..	56	279
Indian Income-tax Act—Section 10(2)(vi)—Depre- ciation Allowance in respect of Sewing and Knit- ting Machines used in the manufacture of Readymade Garments .. .. ..	57	
<b>Indigenous Manufacture of Stores—Encouragement of ..</b>	127	
<b>Industrial Disputes Act—Proposal to amend ..</b>	80	
<b>Industrial Engineering Workshop (Department of Indus-         ties), Bombay .. .. ..</b>	128	
<b>Industrial Housing Scheme (Subsidised)—Difficulties in         Obtaining Vacant Possession of Houses constructed         under the Scheme .. .. ..</b>	124	467
<b>Insurers—Code of Conduct for .. .. ..</b>	117	451

Report Page	Appendix Page
----------------	------------------

**Interviews with :**

Shri V. V. Chari, Member (Income-tax) Central Board of Revenue .. .. ..	47	252
Shri S. N. Bilgrami, Chief Controller of Imports & Exports .. .. ..	86	335
Shri M. K. Venkatachalam, Deputy Secretary, Ministry of Finance, Govt. of India .. .. ..	59	280
<b>Iron and Steel—Transfer of Consignments of—to Haji Bunder Dump .. .. ..</b>	<b>10</b>	

**J**

<b>Jute goods—Increase in Freight Rate of from Calcutta to Bombay .. .. ..</b>	<b>4</b>	
--	----------	--

**L**

<b>Laws—Interpretation of—by Judiciary .. .. ..</b>	<b>73</b>	<b>299</b>
<b>Letter of Credit being confirmed by the State Bank of India—Requirement of .. .. ..</b>	<b>122</b>	
<b>Liability of Internal Air Service in respect of Injury or Damage caused to Passengers or Goods .. .. ..</b>	<b>6</b>	<b>149</b>
<b>Life Insurance Corporation Act, 1956—Bill further to amend .. .. ..</b>	<b>74</b>	<b>300</b>
<b>Life Insurance Corporation—Compensation to Shareholders of .. .. ..</b>	<b>46</b>	
<b>Loading and Unloading of Wagons—Reduction in the Free Period for the purposes of .. .. ..</b>	<b>11</b>	<b>156</b>

**M**

<b>Manganese Ore—Export of .. .. ..</b>	<b>111</b>	
<b>Manganese Ore—Low Grade—Export duty on .. .. ..</b>	<b>112</b>	
<b>Municipal Corporation (Bombay)—Terms and Conditions of the Tenders issued by .. .. ..</b>	<b>137</b>	<b>484</b>
<b>Municipal Licences for Storage of Goods in Licensed Premises—Renewal of .. .. ..</b>	<b>131</b>	
<b>Municipal Roads .. .. ..</b>	<b>128</b>	

**N**

<b>Negotiable Instruments Act—Saving Clause to Section 1</b>	<b>71</b>	<b>329</b>
--	-----------	------------

**O**

<b>Overseas Trade during the next financial year—Trend of</b>	<b>7</b>	
---	----------	--

**P**

<b>Post Box Order, 1956 .. .. ..</b>	<b>23</b>	
<b>Post Offices in Suburban Station—Provision of .. .. ..</b>	<b>23</b>	
<b>Postal Address (Abbreviated)—List of Postal Tariff—Revised .. .. ..</b>	<b>24</b>	
<b>Procedure re: Introduction of, and eliciting Public Opinion on Government Bills .. .. ..</b>	<b>42</b>	<b>242</b>

1988

## R

	Report Page	Appendix Page
--	----------------	------------------

**Railways—Matters regarding :**

Compensation for Claims preferred against Railways in respect of Loss or Damage of Goods consigned over Railways .. .. ..	13	157
Dining Cars on Railway Trains .. .. ..	14	
Difficulties in the matter of Clearance of Goods from the Docks during the period in which Influenza was prevalent in the City .. .. ..	15	
Delay in issue of Railway Receipts at Wadi Bunder .. ..	16	159
Quick Transit Service over the Railways .. ..	16	
Issue of Railway Receipts in respect of consignments of Cotton Cloth Bales .. .. ..	17	
Overcrowding of Trains on the Bombay Suburban Section .. .. ..	18	
Rents of Plots in Byculla Goods Yard .. ..	19	
Freight Rate for Movement of Lead-antimonial .. ..	19	
Grant of Facility of Acceptance of Sender's Weight .. ..	20	
Dislocation in the Western Railway Train Service .. ..	20	
Re-conditioning of the Narbada River Bridge on the Bombay-Ahmedabad Road .. ..	21	
<b>Rectified Spirit used for Research purposes—Exemption from Excise Duty of .. .. ..</b>	<b>130</b>	<b>469</b>
<b>Registration of Documents—Delay in .. .. ..</b>	<b>126</b>	

## S

**Sales Tax—Matters relating to :**

Scheme for Amalgamation of the Sales Tax with Central Excise .. .. ..	64	
Scheme of Abolition of Sales Tax and Amalgamation of the same with the Central Excise Duty—Inclusion of Artificial Silk or Rayon Fabrics therein .. .. ..	64	
Operation of Central Sales Tax Act in respect of Sales to Dealers in some of the Centrally administered areas .. .. ..	65	
Central Sales Tax Act, 1956—Goods sold to Manufacturers, Processors and Contractors in the course of inter-State Trade .. .. ..	65	
Central Sales Tax Act, 1956—Declarations in Form 'C'—Responsibility regarding .. ..	66	
Sales Tax Scheme for the State of Bombay .. .. ..	67	293
A Bill to amend certain Laws relating to the levy of Tax on the Sale or Purchase of Goods in the State of Bombay .. .. ..	68	295
Position of Commission Agents vis-a-vis Sales Tax .. ..	70	298
Sales Tax on Motor Spirit .. .. ..	70	
Bombay Sales Tax—Sales to Military Canteens .. ..	71	
Sitting Arrangements and Other Facilities for Assesseees in the Sales Tax Office .. ..	72	
<b>Silk—Imported—Distribution of .. .. ..</b>	<b>103</b>	<b>437</b>
<b>Speeches of the President and Vice-President at Quarterly General Meetings .. .. ..</b>		<b>487</b>

Report Page	Appendix Page
----------------	------------------

<b>Speech of the President of the Chamber and the Address of the Prime Minister Shri Jawaharlal Nehru on the occasion of the Golden Jubilee Celebrations on 3rd February 1958 .. .. ..</b>	<b>557</b>
<b>Stamped Shipping Orders—Reintroduction of ..</b>	<b>3</b>
<b>T</b>	
<b>Tea—sending out of Gift Parcels of .. ..</b>	<b>121</b>
<b>Telephones—Delay in Arrangements in the Shifting of ..</b>	<b>22</b>
<b>Tenders—Matters regarding :</b>	
Provision for Arbitration in Supply Contracts ..	132
Delay in Refund of Earnest Money Deposits ..	134
Registration of Suppliers by the Director-General of Supplies and Disposals .. ..	134
Placement of Contract on Price Variation Basis ..	135
Conditions governing the Contract of the Central Public Works Department .. ..	135
Difficulties in the Submission of Certified Copies of Correspondence required by the Director-General of Supplies and Disposals .. ..	137
Terms and Conditions of the Tenders issued by the Bombay Municipal Corporation .. ..	137
Conditions governing the Tenders issued by the Bombay Port Trust .. ..	138
<b>Town Planning Act—Difficulties under .. ..</b>	<b>118</b>
<b>Transhipment of consignments lying at Aden ..</b>	<b>126</b>
<b>Trunk Telephone Service .. .. ..</b>	<b>21</b>
<b>W</b>	
<b>Wagons—Loading and Unloading of—Reduction in the Free Period for the purposes of .. ..</b>	<b>11</b>
<b>Wealth Tax Act, 1957 .. .. ..</b>	<b>50</b>
<b>Wealth Tax Act, 1957—Difficulties experienced by Companies re : Computation of Profits, etc. ..</b>	<b>51</b>
<b>Wealth Tax Act—Sections 45(d) and 5(1)(xxi) ..</b>	<b>51</b>
<b>Welfare Officers (Recruitment and Conditions of Service) Rules, 1952 .. .. ..</b>	<b>84</b>

108644

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